



Department for Transport

Highways England
Bridge House
1 Walnut Tree Close
Guildford
GU1 4LZ

Susan Anderson
Head of Transport and Works Act Unit
Department for Transport
Zone 1/14-18
Great Minster House
33 Horseferry Road
London
SW1P 4DR

DIRECT LINE: 07971 145878

Web Site: www.gov.uk/dft

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Dear Sirs,

PLANNING ACT 2008 APPLICATION FOR THE PROPOSED A585 WINDY HARBOUR TO SKIPPOOL IMPROVEMENT SCHEME

1. I am directed by the Secretary of State for Transport (“the Secretary of State”) to say that consideration has been given to:

- the report dated 9 January 2020 of the Examining Authority (“ExA”), Max Wiltshire BSc, MSc, CEng, MICE who conducted an examination into the application by Highways England (“the Applicant”) for a Development Consent Order (“the Order”) under section 37 of the Planning Act 2008 as amended (“the 2008 Act”) for the A585 Windy Harbour to Skippool Improvement Scheme;
- the late representations received by the Secretary of State following the close of the examination; and
- the responses to further consultation undertaken by the Secretary of State in respect of the application.

2. The application was accepted for examination on 26 November 2018 and the examination was completed on 9 October 2019. The examination was conducted on the basis of written and oral submissions submitted to the ExA and by a series of meetings held in the location of the Development. The ExA also undertook 2 unaccompanied and 1 accompanied site inspections.

3. The Order as applied for would grant development consent for a 4.85km long dual 2-lane carriageway bypass from Windy Harbour Junction to the Skippool Junction on the A585. It would incorporate 4 new junctions including the conversion of Skippool Junction to a traffic signal controlled crossroads with A588 Breck Road and B5412 Skippool Road, Skippool Bridge Junction in the form of a three-arm traffic signal controlled junction with the existing Mains Lane, Poulton Junction in the form of a signal controlled crossroads connecting the new bypass to A586 Garstang Road East, and modification to Little Singleton Junction to accommodate U-turning traffic including buses. It would also include three new

major structures including the replacement of Skippool Bridge, Lodge Lane Bridge and Grange Footbridge (ER 1.1.2). The Secretary of State is content that the proposals qualify as a Nationally Significant Infrastructure Project under sections 14(1)(h) and 22(1)(a) of the 2008 Act.

4. Published with this letter on the Planning Inspectorate's website is a copy of the ExA's Report of Findings, Conclusions and Recommendation to the Secretary of State as amended by the Errata (Ref TRO10035) of corrections produced by the Planning Inspectorate and agreed by the ExA. The main features of the proposals and the site are set out in Chapter 2 of the ExA's Report. The ExA's findings and conclusions are set out in Chapters 4 to 8; the ExA's views on the DCO and related matters are contained in Chapter 9; and the ExA's conclusions and recommendation are in Chapter 10 of the ExA's Report.

Summary of the ExA's Recommendations

5. The principal issues considered during the examination on which the ExA has reached conclusions on the case for development consent are set out in the ExA's Report under the following broad headings:

- Legal and Policy Context, including the relevant National Policy Statements, European and Local planning policy (Chapter 3);
- Findings and Conclusions in relation to the planning issues (Chapter 5) which include consideration of; climate, cultural heritage, emissions, landscape and visual, noise and vibration, socio-economic effects, transport and traffic, and water environment;
- Finding and Conclusions in relation to Habitats Regulations Assessment (Chapter 6);
- The Case for Development Consent (Chapter 7);
- Compulsory Acquisition and Related Matters (Chapter 8); and
- Draft Development Consent Order and Related Matters (Chapter 9).

6. For the reasons set out in the Summary of Findings and Conclusions (Chapter 10) the ExA recommended that the Order be made, in the form set out in Appendix D to the Report.

Summary of Secretary of State's Decision

7. **The Secretary of State has decided under section 114 of the 2008 Act to make, with modifications, an Order granting development consent for the proposals in this application.** This letter is the statement of reasons for the Secretary of State's decision for the purposes of section 116 of the 2008 Act and regulation 31(2)(d) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017.

The Secretary of State's Consideration

8. The Secretary of State's consideration of the ExA's Report, the late representations, the responses to consultation and all other material considerations are summarised in the following paragraphs. Where not stated in this letter the Secretary of State can be taken to agree with the ExA's findings, conclusions and recommendations, as set out in the ExA's Report, and the reasons for the Secretary of State's decision are those given by the ExA in support of the conclusions and recommendations. All paragraph references, unless otherwise stated, are to the ExA's Report ("ER") and reference to "requirements" are those in Schedule 2 to the DCO as recommended by the ExA at Appendix D to the ExA's Report.

Legal and Policy context

9. The Secretary of State notes that no material changes were made to the proposals during the course of the Examination but changes were made to plans, the Construction Environmental Management Plan ("CEMP"), the Book of Reference ("BOR") and the Archaeological Mitigation Strategy to reflect ongoing discussion with the Applicant and other parties (ER 2.2.1). The Secretary of State also notes that the Applicant submitted a request for two design changes to the application and accepts the ExA's recommendation that the changes were not so material as to warrant a new application and that they did not give rise to any new or different significant environmental effects (ER 2.2.2). The Secretary of State is therefore satisfied that it is within the powers of section 114 of the 2008 Act to make the order in the form recommended with modifications.

10. Section 104(2) of the 2008 Act also has effect in relation to the development to which the application relates and the Secretary of State must therefore have regard to the relevant National Policy Statements, and Local Impact Reports ("LIR") submitted, certain prescribed matters, and any other matters that the Secretary of State considers to be important or relevant to the decision (ER 3.1.3). As noted by the ExA, under section 104(3) of the 2008 Act the Secretary of State must decide this application in accordance with any relevant National Policy Statement ("NPS"), which in this case is the National Networks National Policy Statement ("NPSNN") subject to certain exceptions set out in section 104(5) to (8) of the 2008 Act, which are not relevant in this case. The Secretary of State also agrees with the ExA's assessment of the legislation and policy that are relevant and important considerations in relation to this application as set out in Chapter 3 of the ExA's Report.

11. The Secretary of State agrees with the ExA in being satisfied that the Environmental Statement ("ES"), together with the other environmental information submitted by the Applicant during the Examination, was adequate and that it meets the requirements under the 2017 EIA Regulations (ER 4.7.8). The Secretary of State notes the measures intended to provide environmental mitigation are those secured in the requirements in Schedule 2 of the DCO (ER 4.7.5) and the Deemed Marine Licence as provided for by article 35 of the DCO (ER 3.3.1).

Findings and Conclusions in relation to the Planning Issues (ER Chapter 5)

Biodiversity

12. The Secretary of State notes that there are no statutory or non-statutory designated sites of nature conservation importance within the Order limits. The Morecambe Bay and Duddon Estuary Special Protection Area ("SPA") and Site of Special Scientific Interest ("SSSI") and Morecambe Bay Ramsar site boundary lies immediately to the north of the

Proposed Development (ER 5.1.9). The Secretary of State notes that the Proposed Development crosses Main Dyke, a tributary of the River Wyre which flows directly into the Morecambe Bay and Duddon Estuary SPA and Morecambe Bay Ramsar Site at two locations. A Habitat Regulations Assessment (“HRA”) Report including a HRA Screening and Appropriate Assessment (“AA”) has been undertaken for the Proposed Development (ER 5.1.10). See paragraph 47 of this letter for the ExA findings and conclusions on the HRA.

13. The Secretary of State notes that surveys undertaken as part of the Environmental Impact Assessment (“EIA”), confirmed the presence of great crested newts 110m north of the Proposed Development and the presence of barn owl within 300m of the Proposed Development, as well as bats and badgers along the Proposed Development Corridor. The Secretary of State notes that in response to issues raised by the ExA in First Written Questions, Natural England (“NE”) confirmed agreement to issuing letters of no impediment relating to European Protected Species Licensing and associated mitigation measures, as confirmed in the Statement of Common Ground (“SOCG”) with NE (ER 5.1.15).

14. The Secretary of State agrees with the ExA that the ES, in accordance with paragraph 5.22 of the NPSNN, sets out any likely significant effects on designated sites, avoids significant harm to biodiversity interests and, where biodiversity benefits can be achieved, these have been incorporated as part of enhancement measures to be delivered in accordance with policy requirements. The Secretary of State is therefore satisfied that the Proposed Development meets the requirements of the NPSNN in relation to biodiversity (ER 5.1.16).

Climate

15. The Secretary of State notes that Climate is a relevant planning issue, in addition to the Initial Assessment of Principal Issues which was important and relevant and raised during the course of the Examination (ER 5.2.1).

16. The Secretary of State notes that the previous ExA requested that the Applicant confirm that their evidence base adequately took climate change into account and they confirmed that a suitable allowance to represent the uplift in tidal flood levels in the Wyre Estuary in accordance with the UK Climate Impacts Programme 2018 H++scenario had been agreed with the Environment Agency (“EA”) as detailed in the Statement of Common Ground (“SOCG”) (ER 5.2.6).

17. The Secretary of State notes that the ExA requested the Applicant to provide an update on how the amended emissions target in the NPSNN as a result of the Climate Change Act 2008 (2050 Target Amendment) affects assessments made in the application. The Secretary of State notes that the Applicant confirmed that “*Environmental Statement 15: Climate...states that ‘Overall, the effects on climate are anticipated to be Not Significant during the construction phase. At this stage, it is anticipated that due to the quantity of material resources required for the Scheme, a further carbon assessment, including GHG emissions, should be undertaken post-construction. During operation, effects on climate are anticipated to be Not Significant.’ This conclusion would not change when considering the revised targets.*” The Secretary of State agrees with the ExA’s view that the Applicant has demonstrated that the ES has made a realistic assessment of the effects of the Proposed Development on Climate (ER 5.2.8).

18. The Secretary of State concurs with the ExA's conclusions that the ES sets out how the proposal will take account of the projected impacts on climate change, adaptation measures have been assessed in the ES, which also sets out how and where such measures are proposed to be secured, evidence is provided on the carbon impact of the project and an assessment against the Government's carbon budgets, and the mitigation measures relating to design and construction are viewed to be adequate. The Secretary of State is satisfied with the ExA's conclusion that climate matters do not weigh against the Order being made (ER 5.2.9).

Cultural Heritage

Archaeology

19. The Secretary of State notes that the previous ExA raised the issue of direct loss of potential archaeological remains related to the known Romano-British Settlements to the West of the Main Dyke at Moorfield Park and whether Requirement 9 in the draft DCO ("dDCO") adequately addressed the issue by investigation for approval by relevant authorities. The Secretary of State notes that the Applicant confirmed during the Examination that the archaeological investigations would be undertaken and the mitigation designed and consulted with the archaeological advisor to Lancashire County Council ("LCC"). The Secretary of State notes that LCC confirmed their agreement with the mitigation measures proposed, as confirmed in the SOCG with LCC (ER 5.3.8 to 5.3.10).

Heritage

20. The Secretary of State notes that the issue of adverse impact on the setting of heritage assets including the Grade II listed Ice House was raised by the previous ExA. The Secretary of State notes that the Applicant confirmed that the mitigation proposed in ES Chapter 7: Cultural Heritage had been deemed appropriate by Historic England, as the statutory consultee for designated assets such as the Ice House (ER 5.3.11). The Secretary of State has had regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses as required under the Infrastructure Planning (Decisions) Regulations 2010 and agrees with the ExA that the predicted public benefits outweigh the loss (ER 10.2.5).

21. The Secretary of State notes that Fylde Borough Council ("FBC") considered that it would be preferable for the acoustic fence proposed to the east of the Lodge Lane bridge to be replaced with an alternative boundary treatment to afford a more sympathetic relationship with neighbouring buildings. The Secretary of State notes that a commitment has been included within the Register of environmental actions and commitments ("REAC") to state that the specification of the material of the fencing would be discussed with FBC prior to construction commencing (ER 5.3.12-5.3.13). The Secretary of State notes the ExA's conclusions contained in ER 5.3.14 and has no reason to disagree with them.

Emissions

22. NPSNN paragraphs 5.6 to 5.11 detail the basis for the Examination by the ExA and the Secretary of State's decision in relation to air quality. The Secretary of State notes that the ExA considered emissions on that basis (ER 5.4.1).

23. The Secretary of State notes that the Chapter 6 of the ES describes existing air quality, forecasts air quality at the time of opening and assesses the significance of environmental effects in line with the NPSNN requirements, as to whether the effects of the Proposed Development are significant and whether it would affect the UK's ability to comply with the Air Quality Directive. The Secretary of State also notes that no Air Quality Management Areas ("AQMAs") have been designated within FBC although there is one in Wyre Borough Council ("WBC") approximately 1.2km southwest of Skippool Junction (ER 5.4.7 and 5.4.8).

24. The Secretary of State notes the conclusions contained in the ES document in ER 5.4.9 and that no issues relating to air quality arose during the examination (ER 5.4.10). The Secretary of State therefore agrees with the ExA's conclusions that the ES has adequately considered air quality impacts over the wider area likely to be affected, the project is unlikely to lead to a breach of the air quality thresholds set out in domestic and European legislation and the Applicant's assessment that the Proposed Development is low risk in terms of the UK's ability to comply with the Air Quality Directive (ER 5.4.11).

Landscape and Visual

25. NPSNN paragraphs 5.144 to 5.146, 5.149 and 5.158 relating to landscape and visual impacts detail the basis for the Examination by the ExA and the Secretary of State's decision in relation to landscape issues (ER 5.5.1 and 5.5.2). The ExA noted the Applicant's approach set out in ER 5.5.3 to 5.5.17 and considered that the Applicant had adequately taken into account the effects on landscape, the benefits of the Proposed Development and the proposed reasonable mitigation to minimise harm (ER 5.5.18). The Secretary of State had no reason to disagree with that conclusion.

26. The Secretary of State notes that about 2.7ha of the Proposed Development around the Skippool Junction falls within the Green Belt ("GB"). He also notes that Nationally Significant Infrastructure Projects ("NSIP") are deemed to be inappropriate in the GB. The Secretary of State notes that in response to a request from the previous ExA the Applicant confirmed that the section of the Proposed Development lying within GB land is limited to improvement works to the Skippool Junction and Amounderness Way extending a short distance (around 400m) to the west of the existing Skippool roundabout. The Secretary of State notes that, in view of the nature of the Proposed Development proposals and their containment within the existing highway boundary, the Applicant considers that this would not lead to an extension of the urban area, nor further incursion into the GB. He further notes the Applicant asserts that it would not impact on or reduce the ability of the GB to prevent neighbouring towns from merging and potential harm to the GB would be minimal and be clearly outweighed by the special circumstances justifying the Proposed Development. The Secretary of State notes that the ExA agrees with their views and has no reason to disagree with that view (ER 5.5.19- 5.5.20 and ER 7.3.5-7.3.6).

27. The Secretary of State notes that the Applicant explained the limits of deviation as set out in the dDCO would allow for approximately 70,000m³ of material to be excavated from the borrow pits from a depth of up to 10m; however, the land would be reinstated

following use to a maximum of 2.6m below existing levels. The Applicant noted that removing 70,000m³, from 10m below existing levels, then restoring the land to 2.6m below represents the worst-case as a lower amount (or none at all) could also be extracted. The Secretary of State notes that the Local Authorities did not comment on this matter but one Interested Party requested confirmation that their land would be used as borrow pits and not as quarrying areas for the removal of minerals and other material which is then not replaced. The Secretary of State also notes the Applicant confirmed that the need for the borrow pits would be determined and confirmed with the landowner during the detailed design stage. The Secretary of State agrees with the ExA's view that the Applicant has provided substantiated justification for the volumes of material required from borrow pits and the deviations stated in the dDCO, and the Borrow Pit Restoration and Aftercare plan was realistic and adequately secured in the DCO (ER 5.5.22-5.5.25).

28. The Secretary of State notes the ExA's conclusions in relation to Landscape and Visual impacts in ER 5.5.26 and has no reason to disagree with them.

Noise and Vibration

29. The Secretary of State notes that an assessment of both construction and operational road traffic noise has been undertaken within Chapter 11 of the ES in accordance with the Design Manual for Roads and Bridges which concluded that road traffic noise nuisance associated with the Proposed Development would result in both increases and decreases in road traffic noise nuisance compared to the existing situation (ER 5.6.3 and 5.6.4). The Secretary of State notes that a CEMP and a Noise and Vibration Management Plan would be prepared and agreed with him, in consultation with FBC and WBC, prior to commencing construction. He also notes an Outline Construction Environmental Management Plan has been prepared together with a REAC which includes a set of best practice working methods for the control of construction noise and vibration, and noise monitoring during construction which would be undertaken at key sensitive receptors to ensure that mitigation was working effectively (ER 5.6.6.).

30. The Secretary of State notes that various residents raised concerns regarding the effects on living conditions caused by increased noise from the Proposed Development. The Secretary of State notes that the Applicant stated that increases in road traffic noise levels generated by the Proposed Development in this location would be mitigated to a minimum and below a level where significant adverse effects on health would occur through the implementation of low noise surfacing, a 2m high noise barrier and the Proposed Development being located within a cutting (ER 5.6.7).

31. The Secretary of State agrees with the ExA's conclusions that the Proposed Development seeks to avoid significant adverse impacts on health and quality of life from noise, seeks to mitigate and minimise other adverse impacts on health and quality of life from noise and the dDCO secures the mitigation measures put forward by the Applicant to ensure that noise levels do not exceed those described in the assessment (ER 5.6.9).

Socio-Economic Benefits

32. The Secretary of State notes that Chapter 10 of the ES presents the assessment of impacts associated with the Proposed Development on People and Communities which includes the socio-economic effects of the Proposed Development (ER 5.7.3). The Secretary of State notes that Chapter 10 consider that the improved connectivity as a result of the Proposed Development had the potential to improve human health through increasing opportunities for walking and cycling. The Secretary of State notes that it is maintained that the design of the new road to a higher highway standard would help reduce uncertainty, fear and driver stress and the Proposed Development is therefore predicted to have a beneficial effect on human health through reduced stress levels typical of delayed or congested road use (ER 5.7.6).

33. The ExA concludes in relation to the Socio-Economic Benefits that the Applicant's assessment of the impacts of the Proposed Development have been soundly based (ER 5.7.11). The Secretary of State agrees with those conclusions.

Transportation and Traffic

34. The Secretary of State notes that the NPSNN refers extensively to transportation and traffic requirements in paragraphs 3.17 (sustainable transport), 4.6 (local transport model) and 5.203 to 5.205 (impacts on transport networks). He further notes that the majority of the Proposed Development falls within FBC's administrative area and the adopted local plan seeks to reduce traffic congestion on the existing trunk road. The Secretary of State notes the Applicant's approach set out in ER 5.8.4 and 5.8.5.

35. The Secretary of State notes that several relevant representations and interested parties raised a number of issues during the Examination, namely those listed in ER 5.8.6 and the Applicant's response to those issues in ER 5.8.7. The Secretary of State notes that various representations were received concerning the provision for cycling and non-motorised users within the Proposed Development in ER 5.8.8 and the Applicant's response to those representations in ER 5.8.9. The ExA was satisfied that the Applicant provided detailed and substantiated answers to the transportation and traffic issues raised by Interested Parties (ER 5.8.11).

36. The Secretary of State agrees with the ExA's conclusions on transportation and traffic matters (ER 5.8.12).

Water Environment

37. The Secretary of State notes that NPSNN paragraphs 5.219 to 5.231 relating to water quality and resources detail the basis for the Examination by the ExA and the basis of his decision regarding those matters; and further notes the Applicant's approach to them (ER 5.9.2 to 5.9.8).

38. The Secretary of State notes the previous ExA asked a series of questions relating to groundwater investigation, compensatory storage areas, replacement culverts and enhanced tidal modelling (ER 5.9.9). The Secretary of State notes that the Applicant provided detailed and substantiated answers to these questions in REP2-041. He further notes that various residents raised concerns regarding the effects of potential flooding in the Skippool area caused by the Proposed Development and the Applicant's response that the drainage design of the Proposed Development aims to ensure no detriment to existing

surface water flood risk, and stated that a Flood Risk Assessment had been prepared and the EA has accepted its contents as stated in the SoCG (ER 5.9.10).

39. The Secretary of State notes the ExA's conclusions on the water environment matters (ER 5.9.11) and sees no reason to disagree with them.

Habitats Regulation Assessment (“HRA”)

40. Under regulation 63 of the Conservation of Habitats and Species Regulations 2017 (“the Habitats Regulations”), the Secretary of State is required to consider whether the Proposed Development would be likely, either alone or in combination with other plans and projects, to have a significant effect on a European site. The Proposed Development is not connected with or necessary to the management of any European Site. The Secretary of State must therefore undertake an AA if likely significant effects on the conservation objectives of a European Site, either alone or in combination with other plans or projects, cannot be ruled out.

41. In order to establish whether there are likely to be significant effects on any European Site, the Secretary of State must consider whether such significant effects can be ruled out. If not, the Secretary of State may grant development consent only if it has been ascertained that the project will not, either on its own or in combination with other plans and projects, adversely affect the integrity of a European site, unless there are no feasible alternatives or imperative reasons of overriding public interest apply.

42. The Secretary of State notes that the Applicant provided a Habitats Regulations Assessment Report with its DCO application (ER 6.2.3) which identified seven European Sites for inclusion within the assessment. These being:

- Morecambe Bay and Duddon Estuary SPA;
- Morecembe Bay Ramsar Site;
- Morecambe Bay Special Area of Conservation (“SAC”);
- Ribble and Alt Estuaries SPA;
- Ribble and Alt Estuaries Ramsar Site;
- Liverpool Bay SPA;
- Shell Flat and Lune Deep SAC.

43. The Secretary of State notes that the Applicant's screening assessment concluded that the Proposed Development would have no likely significant effects, either alone or in combination with other plans or projects, on the qualifying features of Morecambe Bay SAC, Ribble and Alt Estuaries SPA, Ribble and Alt Estuaries Ramsar Site, Liverpool Bay SPA and Shell Flat and Lune Deep SAC. NE agreed that the Proposed Development would have no likely significant effects on these five sites (ER 6.4.5 and 6.4.6).

44. The Applicant concluded that there is potential for likely significant effects, either alone or in combination with other projects or plans, on the qualifying features of Morecambe Bay and Duddon Estuary SPA and Morecambe Bay Ramsar Site (ER 6.4.6). NE considered that adverse effects on the integrity on these European sites should be considered (ER 6.4.7). The Secretary of State notes that the Applicant's assessment of the potential for adverse effects were considered in Section 7 of the HRA (ER 6.6.1) and further notes that the Applicant concluded that the Proposed Development would not have adverse effects on any of the European Sites and qualifying features (ER 6.6.2).

45. The Secretary of State, as the competent authority for transport NSIPs, has given consideration to the assessment material during the Examination and considers that the likely significant effects in relation to construction and/or operation could not be ruled out. The Secretary of State therefore considered an AA should be undertaken to discharge his obligations under the Habitats Regulations. This is attached at Annex B to this letter.

46. In the Secretary of State's view, the material provided during the Examination contains sufficient information to inform consideration under regulation 63 of the Habitats Regulations as to the likely impact on the European Sites. The AA has considered the conclusions and recommendation of the ExA and has taken account of the advice of Statutory Nature Conservation Body, which in this case is NE and the views of other interested parties as submitted during the Examination.

47. The Secretary of State is satisfied that, given the relative scale and magnitude of the identified effects on the qualifying features of these European sites and where relevant, the mitigation measures in place to avoid and reduce the potential harmful effects, there would be no implications for the achievement of the conservation objectives for these European sites. The Secretary of State therefore agrees with the ExA that the Proposed Development would have no adverse effect, either alone or in-combination with other plans or projects, on any European site (ER 6.7.2).

Conclusion on the case for Development Consent

48. The Secretary of State notes the ExA's consideration that the Proposed Development would meet the policy justification for national network development required by the NPSNN in that it would underpin the Government's social, economic and environmental policy aspirations, and provide improved conditions in which people travel (ER 7.3.2).

49. The Secretary of State notes that the Proposed Development would lead to predicted damage to the setting to the Grade II listed Ice House, potential archaeological remains associated with the Romano-British settlement at Moorfield Park and predicted negative landscape effects in some areas. The Secretary of State notes improvement works to Skippool Junction and Amounderness way fall within the GB. Given that the incursion into the GB is contained within the existing highway boundary, the ExA concluded that harm to the GB would be minimal and found that there are "very special circumstances" in accordance with the NPSNN paragraph 5.178 that clearly outweigh the potential harm to the GB. The Secretary of State agrees with that conclusion (ER 7.3.4 to 7.3.6).

50. The Secretary of State notes the ExA's conclusions that none of the matters weighing against the Proposed Development are sufficient to outweigh the advantages of the Proposed Development outlined above. The Secretary of State agrees with the ExA's conclusion that there is a clear justification in favour of granting development consent for the A585 Windy Harbour to Skippool Improvement Scheme (ER 7.3.8).

Compulsory Acquisition

51. The Secretary of State notes that article 23 of the draft DCO permits the Applicant to acquire existing rights, create new rights and impose restrictive covenants over all of the Order land (ER 8.2.6). Article 29 of the DCO permits the Applicant to take temporary possession of land in Schedule 7 and any other Order land in respect of which no notice of entry has been served and no declaration has been made (ER 8.2.7). The Secretary of State notes that the ExA were concerned that the effect of articles 23(1) and 29(9) might enable the creation of undefined new rights over the land listed in Schedule 7, despite that land being described as temporary possession (“TP”) only in the Statement of Reasons and the Book of Reference and shown as being for TP on the land plans (ER 8.2.9). The Applicant confirmed that the general power to create new rights over the TP land was necessary just in case permanent rights were required following hand back of the land (ER 8.2.12).

52. The Secretary of State notes the ExA found that it was not clear as to whether the persons with an interest in the land listed in Schedule 7 would have been aware that the Applicant was seeking to compulsorily acquire new rights in that land and, in the absence of confirmation from the Applicant, the ExA concluded they could not be certain that the landowners had been consulted (ER 8.2.13). The Secretary of State sought confirmation from the Applicant that these landowners had been consulted and notes the Applicant’s response that statutory consultation was undertaken. The Secretary of State considers that, in the absence of consultation with the relevant landowners and persons with an interest in the land in Schedule 7, it is questionable whether these persons had been given adequate opportunity to effectively participate in the examination and receive a fair hearing in relation to the compulsory acquisition (“CA”) of new rights in this land (ER 8.2.18).

53. The Secretary of State notes that the Applicant sought to address concerns raised by the ExA during the Examination by restricting the power to create new rights in land in Schedule 7 to the purpose to which TP was sought and by expanding the description of those purposes (ER 8.2.15). The Secretary of State notes that the ExA concluded that these changes did not satisfy section 122 of the 2008 Act, Article 6 of the European Convention of Human Rights or the DCLG guidance for the reasons given in ER 8.7.2 and has recommended changes to the DCO to remove the new rights set out in Part 2 of Schedule 7. The Secretary of State agrees with that view.

54. The Secretary of State notes the ExA’s conclusions in relation to a request for a design change, individual objections, statutory undertakers’ land, Crown Land and Human Rights contained in ER 8.7.4 to 8.7.9. The Secretary of State has no reason to disagree with those conclusions. The Secretary of State is content with the ExA’s recommendation to remove the new rights sought in Schedule 7 and the conclusion that in doing so the tests of section 122(2) and (3) in the 2008 Act are met and that the CA and TP powers proposed in the DCO as a whole can be accepted.

Modifications to the Order by the Secretary of State

55. The following modifications have been made to the Order:

- in the final paragraph of the preamble, reference has been inserted for paragraphs 30A and 30B (deemed marine licence and conditions) of Part 1 of Schedule 5 to the 2008 Act.
- in article 2(1), the reference to Crown Land plans has been removed as the only reference to the term is in Schedule 11 (documents to be certified).

- in article 2(1), the reference to the Gas Transportation Company Limited in articles 2(1) and 8(4)(d) has been replaced by the GTC Infrastructure Limited, which reflects information in the Companies House register.
- the provisions contained in article 2(7) dealing with the Neighbour Planning Act 2017 have been removed from the interpretation article. A new paragraph (7) has been inserted into article 29 (temporary use of land for carrying out the authorised development) and article 30 (temporary use of land for maintaining the authorised development).
- in article 15 (clearways) a new paragraph (5) has been inserted to provide a definition of “traffic officer”.
- in article 17 (discharge of water), paragraph (8)(a) contains a reference to “Homes England”. There appears to be a lack of clarity on whether this reference or a reference to the “Homes and Communities Agency” is the correct reference.
- In article 29 (temporary use of land for carrying out the authorised development), paragraph (9) has been reworked so as to remove the wording of what was sub-paragraph (a).
- in article 37 (trees subject to tree preservation orders), paragraph (2)(b) now includes a requirement that the Applicant should, where possible, replace trees that have been removed.

Secretary of State’s overall conclusions and decision

56. For all the reasons set out in this letter and the ExA’s Report, the Secretary of State considers that there is a clear justification for authorising the Development. The Secretary of State has therefore decided to accept the ExA’s recommendation at ER 10.3.2 and grant development consent, subject to the changes to the Order referred to in paragraph 55. The Secretary of State is satisfied that none of these changes constitute a material change. He is therefore satisfied that it is within the power of section 114 of the 2008 Act for him to make the Order as now proposed.

Challenges to decision

57. The circumstances in which the Secretary of State’s decision may be challenged are set out in the note attached at the Annex to this letter.

Publicity for decision

58. The Secretary of State’s decision on this application is being published as required by section 116 of the 2008 Act and regulation 31 of the 2017 Regulations.

Yours faithfully,

Susan Anderson

Annex A

LEGAL CHALLENGES RELATING TO APPLICATIONS FOR DEVELOPMENT CONSENT ORDERS

Under section 118 of the Planning Act 2008, an Order granting development consent, or anything done, or omitted to be done, by the Secretary of state in relation to any application for such an Order, can be challenged only by means of a claim for judicial review must be made in to High Court during the period of 6 weeks beginning with the day after the day on which the Order is published. Please also copy any claim that is made to the High Court to the address at the top of this letter.

The A585 Windy Harbour to Skippool Improvement Scheme Development Consent order 2020 (as made) is being published on the Planning Inspectorate website at the following address:

<https://infrastructure.planninginspectorate.gov.uk/projects/north-west/a585-windy-harbour-to-skipool-improvement-scheme/>

These notes are provided for guidance only. A person who thinks they have grounds for challenging the decision to make the Order referred to in this letter is advised to seek legal advice before taking any action. If you require advice on the process for making any challenge you should contact the Administrative Court Office at the Royal Court of Justice, Stand, London WC2A 2LL (020 7947 6655).

Annex B

**HABITATS REGULATIONS ASSESSMENT FOR AN
APPLICATION UNDER THE PLANNING ACT 2008**

A585 WINDY HARBOUR TO SKIPPOOL IMPROVEMENT SCHEME

9 April 2020

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1. INTRODUCTION

Background

- 1.1. This document is a record of the Habitats Regulations Assessment ("HRA") that the Secretary of State for Transport has undertaken under regulation 63 of the Conservation of Habitats and Species Regulations 2017 ("the Habitats Regulations") in respect of the Development Consent Order ("DCO"), for the proposed 'A585 Windy Harbour to Skippool Improvement Scheme' ("the Development"). This document ("the HRA Report") includes an appropriate assessment for the purposes of regulation 63 of the Habitats Regulations.
- 1.2. Highways England ("the Applicant") applied to the Secretary of State for a DCO under section 37 of the Planning Act 2008 ("PA 2008") for the Development. The Development to which the Application relates is described in more detail in Section 2 of this HRA Report.
- 1.3. The Development constitutes a Nationally Significant Infrastructure Project (NSIP) by virtue of it being the "construction" of a highway within the meanings of sections 14(1)(h), 22(1)(a) and 22(2) of the PA2008. This is set out in Section 1.3 of the Applicant's Planning Statement (Document ref. 7.1).
- 1.4. The application for the Development was accepted for examination by the Planning Inspectorate ("the Inspectorate") (under the delegated authority of the Secretary of State) on 26 November 2018.
- 1.5. The Secretary of State for the Ministry of Housing, Communities and Local Government ("MHCLG") appointed Gareth Symons as the Examining Authority ("ExA") for the Application on 13 December 2018. The examination commenced on 9 April 2019.
- 1.6. However, the ExA submitted his resignation to the Secretary of State under s80(2) of the PA2008. Max Wiltshire was appointed as the ExA under s79 and in accordance with s82(1) of the PA2008 with effect from 24 June 2019.
- 1.7. The Applicant submitted requests to make changes to the Development to which the Application relates during the examination, as set out in Section 2.2. of the ExA's Recommendation Report. The changes were initially requested on 17 May 2019 and can be summarised as:
 - Construction of a 'dwarf wall' and widening of footway / cycleway on Skippool Road (including hedgerow removal); and
 - Provision of an additional road link to farmland and construction of a farm access track, fencing and farm gates.
- 1.8. The ExA accepted the changes as being 'non-material' amendments and issued a Procedural Decision confirming this on 30 September 2019. The ExA was content that the effect of the amendments were not so material as to warrant a new application and that they do not give rise to any new or different significant environmental effects.
- 1.9. The examination concluded on 9 October 2019. The ExA submitted the report of the examination, including its recommendation to the Secretary of State for

Transport on 9 January 2020. The Secretary of State's conclusions in relation to European sites have been informed by the ExA's report and the documents submitted during the examination as described below.

Habitats Regulations Assessment

- 1.10. Council Directives 92/43/EEC ("the Habitats Directive") and 2009/147/EC ("the Birds Directive") provide for the designation of sites for the protection of certain species and habitats. The sites designated under these Directives are collectively termed European sites and form part of a network of protected sites across Europe, known as the Natura 2000 network. In the UK the Habitats Regulations transpose these Directives into national law and apply up to the 12 nautical mile limit of territorial waters.
- 1.11. The UK Government is also a signatory to the Convention on Wetlands of International Importance 1972 ("the Ramsar Convention"). The Ramsar Convention provides for the listing of wetlands of international importance. UK Government policy is to give sites listed under this convention ("Ramsar sites") the same protection as European sites.
- 1.12. For the purposes of this HRA Report, in line with the Habitats Regulations and relevant Government policy, the term European sites includes Special Areas of Conservation (SAC), candidate SACs (cSAC), possible SACs (pSAC), Special Protection Areas (SPA), potential SPAs (pSPA), Sites of Community Importance (SCI), listed and proposed Ramsar sites and sites identified or required as compensatory measures for adverse effects on any of these sites.
- 1.13. Regulation 63 of the Habitats Regulations requires that:

"(1) A competent authority, before deciding to undertake, or give any consent, permission or other authorisation for, a plan or project which-

(a) is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and

(b) is not directly connected with or necessary to the management of that site,

must make an appropriate assessment of the implications of the plan or project for that site in view of that site's conservation objectives..."
- 1.14. The Development is not connected with or necessary to the management of any European sites, as set out in Section 2.2 of the Applicant's HRA (Document ref 5.4). Accordingly, the Secretary of State for Transport, as the competent authority for the purposes of Transport NSIPs under the PA2008, has undertaken an assessment in line with the requirements of the Habitats Regulations. This HRA Report is the record of the appropriate assessment for the purposes of regulation 63 of the Habitats Regulations.

The Report on the Implications for European Sites and Consultation with the Appropriate Nature Conservation Body

- 1.15. The ExA, with support from the Inspectorate's Environmental Services Team, produced a Report on the Implications for European Sites ("the RIES"). The

purpose of the RIES was to compile, document and signpost information submitted by the Applicant and Interested Parties (“IPs”) during the examination up to and including deadline 6a of the examination. It was issued to ensure that IPs, including Natural England (“NE”) as the appropriate nature conservation body in respect of the Application for the Development, had been formally consulted on Habitats Regulations matters during the examination. The consultation period ran between 27 August 2019 and 20 September 2019.

- 1.16. Regulation 63(3) of the Habitats Regulations requires competent authorities (in this case the Secretary of State), if they undertake an appropriate assessment, to consult the appropriate nature conservation body and have regard to any representations made by that body.
- 1.17. NE provided comments on the RIES at deadline 7 of the examination. A draft Statement of Common Ground (“SoCG”) between the Applicant and NE was first submitted at deadline 2 of the examination on 17 May 2019, with an updated version submitted at deadline 4, and a signed version at deadline 8. Subsequent references to the SoCG in this HRA Report are to the version submitted at deadline 8, labelled as ‘Rev 2’, and signed by both parties on 1 October 2019. The SoCG confirmed that all matters relating to HRA were agreed between the two parties (set out in Section 3.2), and that there were no HRA matters outstanding between them in respect of the Development.
- 1.18. The Secretary of State is satisfied that NE have been consulted and has been given suitable opportunities to make representations in accordance with regulation 63(3) of the Habitats Regulations.

Changes to the Application during Examination

- 1.19. In respect of the non-material amendments to the Application described above and at Section 2.2 of the ExA’s Recommendation Report, the Secretary of State is satisfied that the changes constituted non-material amendments that did not have any bearing on HRA matters. No specific updates were made to the Applicant’s HRA documentation in light of the changes (as set out in the following section).
- 1.20. The Secretary of State concludes that the findings in the Applicant’s HRA (as described below) are unaffected by the non-material amendments.

Documents Referred to in this HRA Report

- 1.21. This HRA Report has taken account of and should be read in conjunction with the documents produced as part of the application and examination as listed in Annex 1 to this HRA Report.
- 1.22. The Applicant submitted a report entitled ‘Habitats Regulations’ (“the Applicant’s HRA”) as part of their DCO application. This is the principal document prepared by the Applicant in support of HRA matters. The Applicant’s HRA was accompanied by the following appendices:
 - Appendix 1: Figures;
 - Appendix 2: Morecambe Bay and Duddon Estuary Conservation Objectives;

- Appendix 3: Bird Survey Report;
- Appendix 4: The Planning Inspectorate Matrices; and
- Appendix 5: Natural England Consultation and the Planning Inspectorate Comments.

1.23. As set out in paragraphs 6.3.2 – 6.3.8 of the ExA’s Recommendation Report, subsequent versions of the Applicant’s HRA were submitted during the pre-examination (HRA Rev 1, dated December 2018) and examination period (HRA Rev 2, dated May 2019). The revised versions (each superseding the previous iteration) were principally submitted in response to:

- Planning Inspectorate advice under s51 of the PA2008 during the pre-examination period (after the acceptance of the DCO application to proceed to examination); and
- Comments made by NE in their Relevant Representation (RR) (dated 24 January 2019) in relation to:
 - Details of mitigation measures for water quality and run-off;
 - Levels of mitigation that may be required to address impacts from night-time construction;
 - Clarity in the assessment of noise and vibration disturbance for bird species; and
 - Impacts of the Development to waterbird assemblages.

1.24. These issues are discussed further in his HRA Report as relevant.

1.25. ‘Rev 2’ of the Applicant’s HRA is the most recent iteration of the document and all references to the Applicant’s HRA by the Secretary of State in this HRA Report are to this version unless otherwise stated.

Structure of this HRA Report

1.26. The remainder of this HRA Report is presented as follows

- Section 2 provides a general description of the Development.
- Section 3 describes the location of the Development and its relationship with European sites.
- Section 4 identifies the European sites and qualifying features subject to likely significant effects, alone or in-combination with other plans or project.
- Section 5 considers adverse effects on the integrity of European sites, alone or in-combination with other plans or projects.
- Section 6 summarises the Secretary of State’s appropriate assessment and HRA conclusions.

2. DEVELOPMENT DESCRIPTION

- 2.1. The Development is located along the A585 between the Windy Harbour Junction and the Skippool Junction near Poulton-le-Fylde, Lancashire, and would provide an improvement to 4.85km of the existing single carriageway of the wider A585 trunk road route (that extends between M55 Junction 3 and the Port of Fleetwood on the Fylde Peninsula).
- 2.2. The Development itself broadly comprises:
- 4.85km of dual 2-lane carriageway forming a bypass from Windy Harbour Junction to the Skippool Junction on the A585.
 - Four new junctions
 - Conversion of Skippool Junction to crossroads with A588 Breck Road and B5412 Skippool Road;
 - Three-arm traffic signal-controlled Skippool Bridge junction with the existing Mains Lane;
 - Signal controlled crossroads at Poulton Junction (connecting the new bypass to A586 Garstang Road East)
 - Modification to Little Singleton Junction (also known as Five Lane Ends)
 - Three new major structures including the replacement of Skippool Bridge, Lodge Lane Bridge and Grange Footbridge;
 - Alterations to the existing road network, including:
 - Detrunking the A585 between Skippool Bridge Junction and the end of Garstang New Road (reduction in speed limit to 30 miles per hour (mph) and providing a combined footway/cycleway);
 - Altering Garstang New Road to allow restricted access to farmers' fields and provide a shared footway/cycleway route between Windy Harbour Junction and Little Singleton;
 - Reduced speed limit of 30mph along Garstang Road East and upgrading the lighting; and
 - In connection with all of the above, four temporary construction compounds and associated works for temporary access, temporary lay-down and work areas and ancillary works
- 2.3. The Development is described in detail Section 4 of the Applicant's HRA and in Chapter 2 of the ES (Document 6.1) with further description of each of the key components listed above. Figure 2.1 of ES Chapter 2 (Document 6.1) illustrates the extent of the Development and the location of the above listed components.

- 2.4. The phased construction of the Development is expected to take approximately two years. Further detail on the timings and key activities involved is set out in Appendix 2.1 of the ES (Document 6.2.1), including:
- Key dates and milestones (Table 3-1);
 - Typical construction methods (Section 4) (including earthworks, structures and construction material quantities (Table 4-1);
 - Land take requirements including site compounds; and
 - Traffic management (including vehicle movement estimates and delivery routes).
- 2.5. Following completion of the Development, ongoing maintenance operations would include routine activities required on a cyclical or regular basis with potential for infrequent, non-routine activities with less predictable access requirements. For example:
- Road surfacing would be removed and replaced after between 10 to 20 years
 - Steel safety fences would be replaced after typically 25 years
 - Lighting columns, road signs and traffic signals would be replaced after between 25 and 30 years
 - Electrical cables for lighting, signs and traffic signals would be replaced after typically 30 years
 - Drains, chambers and culverts may need repairs after 40 years
 - Structural concrete and steelwork have extended design lives of up to 120 years.
- 2.6. Chapter 5 of the ES explains that effects associated with the replacement of certain elements when they reach the end of their own design life (such as those listed above) are considered, but that "*due to the long design life of the Scheme it is not considered appropriate for decommissioning of the Scheme in its entirety to form part of each environmental topic assessment*". This is also set out in Sections 4.13 and 6.8 of the Applicant's HRA; as decommissioning and / or demolition works at the end of the Development's operational life are yet to be determined.
- 2.7. The potential effects on European sites associated with the construction, and operation of the Development are addressed in Section 4 of this HRA Report.

3. LOCATION OF THE DEVELOPMENT AND RELATIONSHIP WITH EUROPEAN SITES

Location and Existing Land Use

- 3.1. The Development is located along the A585 near Poulton-le-Fylde, Lancashire. The surrounding landscape is low lying and coastal, characterised by arable fields, pasture, drainage ditches and small to medium sized blocks of mixed woodland. There is a greater density of residential properties surrounding the western half of the Development with farmland becoming more prevalent to the east.
- 3.2. The Development follows a route to the south of the ribbon development between Skippool and Little Singleton. The key environmental constraints in relation to the Development are shown on Figure 1.2 and set out further in Section 1.2 of ES Chapter 1 (Document 6.1), including:
- The Morecambe Bay and Duddon Estuary Special Protection Area (SPA);
 - Morecambe Bay Ramsar site;
 - Morecambe Bay Site of Special Scientific Interest (SSSI);
 - Wyre and Lune proposed Marine Conservation Zone (pMCZ)¹
 - Three Biological Heritage Site (BHS) designations associated with the Wyre Estuary (with the Main Dyke watercourse lying next to the west of the Development with areas of low-lying floodplain

European Sites Potentially Affected by the Development

- 3.3. The Order limits of the Development do not overlap with the boundaries of any European sites (although they are in proximity as set out below).
- 3.4. Section 6 and Table 7 of the Applicant's HRA identifies seven European sites² for which there could be pathways of effect from the Development as set out in Table 1, below.

Table 1: European sites identified in the vicinity of the Development

European Site	Approximate Distance from the Development boundary (km)*
Morecambe Bay and Duddon Estuary SPA	0.3

¹ The Secretary of State notes that the Wyre Lune Marine Conservation Zone Designation Order 2019 was made on 31 May 2019, thereby formalising its status as an MCZ: <https://www.gov.uk/government/publications/marine-conservation-zones-wyre-lune>

² The term European sites in this context includes Special Areas of Conservation (SAC), Sites of Community Importance (SCI), candidate SACs (cSAC), possible SACs (pSAC), Special Protection Areas (SPAs), potential SPAs (pSPA), Ramsar sites and proposed Ramsar sites

European Site	Approximate Distance from the Development boundary (km)*
Morecambe Bay Ramsar site	0.3
Morecambe Bay SAC	8
Ribble and Alt Estuaries SPA	10
Ribble and Alt Estuaries Ramsar site	10
Liverpool Bay SPA	6
Shell Flat and Lune Deep SAC	9

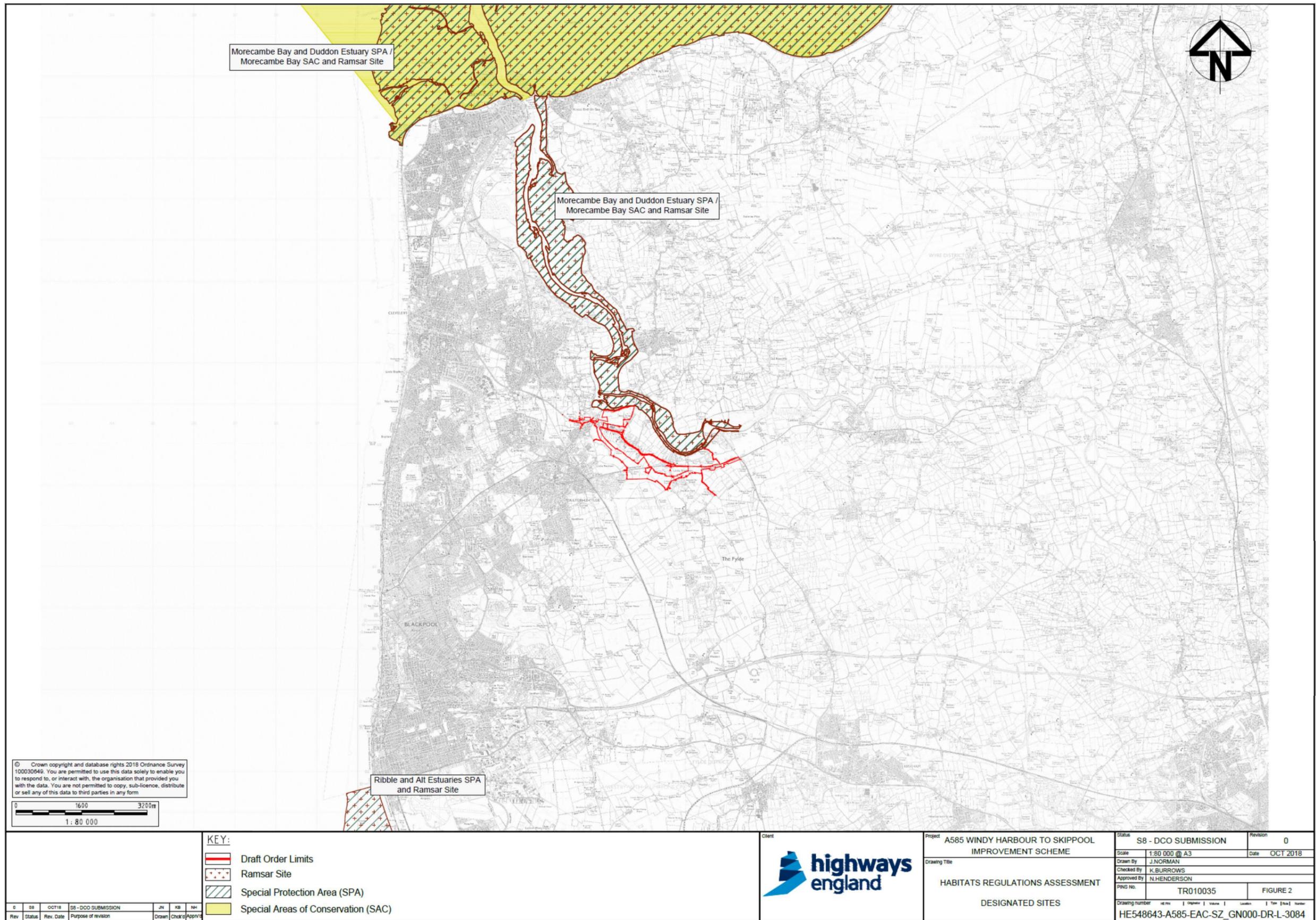
*Approximate distances as set out in Table 7 of the Applicant's HRA

- 3.5. These European sites were identified, in accordance with guidance contained in the Design Manual for Roads and Bridges (DMRB) HD 44/09³ which includes for consideration of sites within:
- 2km of the route corridor/project boundary (extended by the Applicant to 10km on a precautionary basis for the Development); and
 - 30km where bats are noted as a qualifying interest.
- 3.6. As set out in Table 7 of the Applicant's HRA, there are no identified European sites within 30km where bats are identified as qualifying feature
- 3.7. The locations of these sites relative to the Development are shown on Figure 1 and Figure 2 of this HRA Report (provided as part of the Applicant's HRA and ES Appendix 8.4 (Document 6.8.4) respectively). In particular, Figure 2 illustrates the relative proximity of the Development to the Morecambe Bay and Duddon Estuary SPA and Morecambe Bay Ramsar site (stated by the Applicant as being "300m away at its closest point" (paragraph 6.3.11 of the Applicant's HRA).
- 3.8. The Secretary of State is aware that the "Mitigation Area" in the fields to the west of Shard Road (as described further in paragraph 7.6.2 of the Applicant's HRA) are in actual fact closer than 300m to the Development, but proposed works in this area relate to temporary management of the land to provide suitable habitat for the benefit of foraging birds during construction. The distances to the identified European sites, relevant pathways of effect and the Mitigation Area are considered further in Section 4 and Table 2 of this HRA Report.
- 3.9. No evidence was presented during the examination to suggest that effects from the Development could occur to any other European site.

³ DMRB Volume 11 Section 4 Part 1 (HD 44/09) Environmental assessment. Assessment of implications on European Sites. Assessment of implications (of highways and/or roads projects) on European Sites (including appropriate assessment)

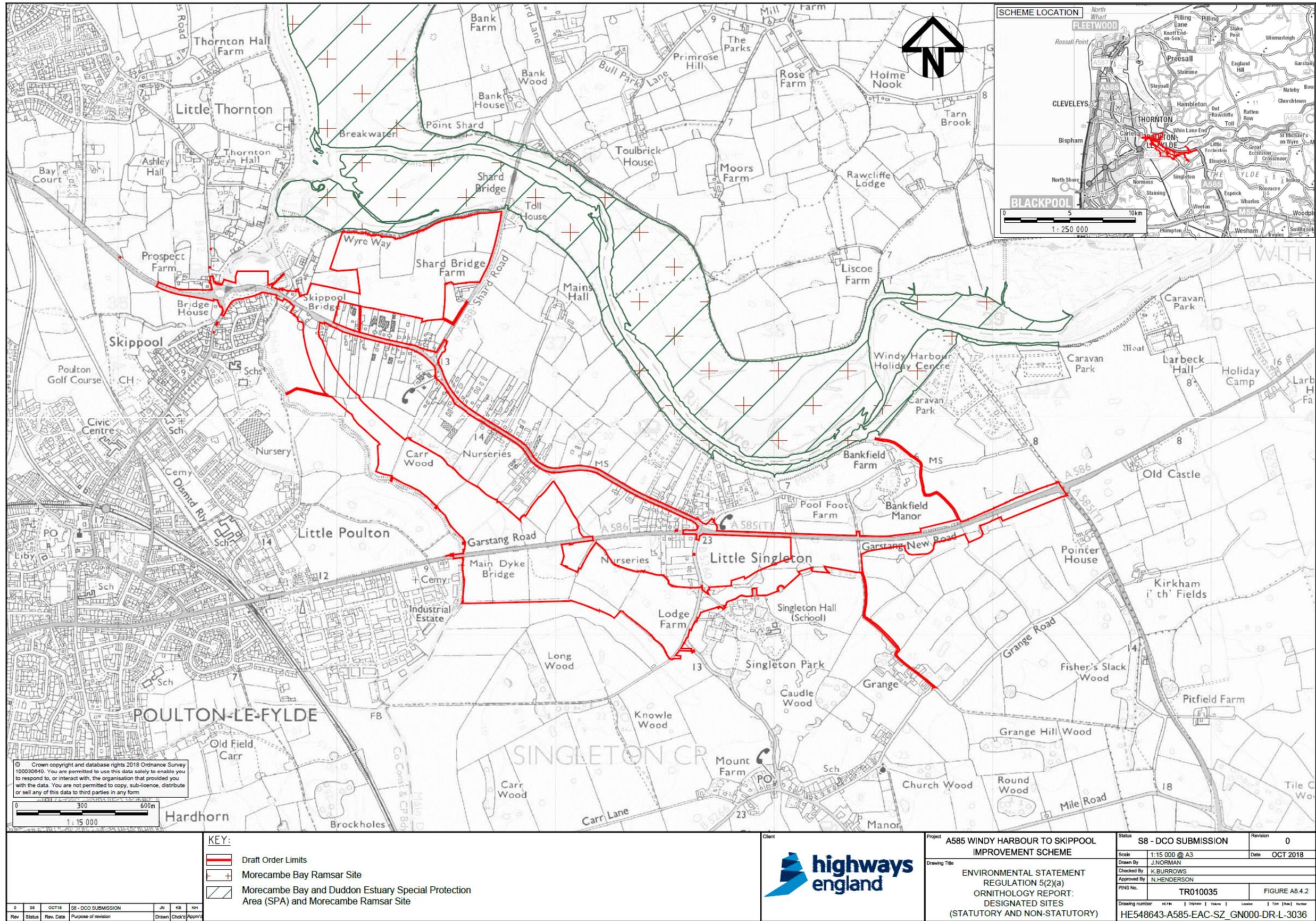
- 3.10. The Secretary of State is therefore satisfied that no other European site needs to be addressed in this HRA Report.
- 3.11. The Secretary of State is also satisfied that the Development is not directly connected with or necessary to the management of any European site as stated in Paragraph 2.2.3 of the Applicant's HRA.

Figure 1 Location of the Development in relation to European sites potentially affected⁴



⁴ The figure from the Applicant's HRA omits the location of the Liverpool Bay SPA. It's location (parallel with the coastline between Blackpool and Cleveleys) is available: <http://publications.naturalengland.org.uk/publication/3236717> (noting an extension to the SP made in October 2017: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/668480/liverpool-bay-bae-lerpwl-final-map.PDF)

Figure 2 Proximity of the Development in relation to the Morecambe Bay Ramsar Site and Morecambe Bay and Duddon Estuary SPA



4. ASSESSMENT OF LIKELY SIGNIFICANT EFFECTS (LSE)

Potential Effects from the Development

- 4.1. Section 6 of the Applicant's HRA outlines their approach to screening for LSE. The Applicant explains that although there would be no direct impacts upon the features of any of the European sites, there is the potential for indirect impacts upon mobile qualifying species, or through pollution and / or air quality effects.
- 4.2. Sections 6.3 of the Applicants HRA set out (on a site-by-site basis) potential effects which could occur as a result of construction and operational activities necessary for the Development:
- Morecambe Bay and Duddon Estuary SPA and Morecambe Bay Ramsar site (Paragraphs 6.3.2 – 6.3.13);
 - Morecombe Bay SAC (Paragraphs 6.3.14 – 6.3.19);
 - Ribble and Alt Estuaries SPA and Ramsar site (Paragraphs 6.3.20 – 6.3.22);
 - Liverpool Bay SPA (Paragraphs 6.3.23 – 6.3.25); and
 - Shell Flat and Lune Deep SAC (Paragraphs 6.3.26 – 6.3.28)
- 4.3. Those potential effects identified are as follows (summarised on a site-by-site basis to which they apply in Table 2 of this HRA Report):
- **Disturbance / Displacement and Habitat Loss** – Resulting from loss of foraging and roosting habitat used by SPA / Ramsar site species and / or degradation of SAC qualifying features within and adjacent to the Development;
 - **Air Quality** – Resulting from increased pollution and dust from construction traffic / plant and during operation from increased road traffic; and
 - **Water Quality** – Resulting from impacts to the River Wyre and its associated tributaries, due to receipt of construction site runoff and potential for reduced flow conveyance capacity.
- 4.4. The Applicant's assessment follows a source-pathway-receptor model and no other impact pathways were identified.
- 4.5. No evidence was presented during the examination that the Development was likely to give rise to any other effects on European sites than had been considered by the Applicant as set out above.

Sites and Features which could be Affected

- 4.6. The Applicant's AIES screened the sites and qualifying features listed in Table 2 to establish if significant effects were likely. The Secretary of State is content that this list includes all of the sites and qualifying features which require consideration given the nature, scale and location of the Development.

Table 2 Sites screened into Applicant's HRA

Name of European site and location in relation to the Development	Qualifying features	Pathways of effect
<p>Morecambe Bay and Duddon Estuary SPA</p> <p>(0.3km from the Development)</p>	<p>Article 4.1 Qualification (2009/147/EC)</p> <p>Over winter the site regularly supports:</p> <ul style="list-style-type: none"> • Whooper swan <i>Cygnus Cygnus</i> • Little egret <i>Egretta garzetta</i> • European golden plover <i>Pluvialis apricaria</i> • Ruff <i>Calidris pugnax</i> • Bar-tailed godwit <i>Limosa lapponica</i> • Mediterranean Gull <i>Larus melancephalus</i> <p>During the breeding season the site regularly supports:</p> <ul style="list-style-type: none"> • Common tern <i>Sterna hirundo</i> • Sandwich tern <i>Sterna sandvicensis</i> • Little tern <i>Sternula albifrons</i> <p>Article 4.2 Qualification (79/409/EEC)</p> <p>On passage the site regularly supports</p> <ul style="list-style-type: none"> • Pink-footed goose <i>Anser brachyrhynchus</i> • Common shelduck <i>Tadorna tadorna</i> 	<ul style="list-style-type: none"> • Disturbance/displacement of species utilising fields within and adjacent to the Development from noise and visual effects associated with construction • Loss of foraging and roosting habitat used by species within and adjacent to the Development • Air pollution and dust from construction traffic and machinery • Impacts on water quality on the River Wyre and its associated tributaries, due to receipt of construction site runoff and potential for reduced flow conveyance capacity

Name of European site and location in relation to the Development	Qualifying features	Pathways of effect
	<ul style="list-style-type: none"> • Eurasian oystercatcher <i>Haematopus ostralegus</i> • Common ringed plover <i>Charadrius hiaticula</i> • Grey plover <i>Pluvialis squatarola</i> • Red knot <i>Calidris canutus</i> • Sanderling <i>Calidris alba</i> • Dunlin <i>Calidris alpina alpina</i> • Black-tailed godwit <i>Limosa limosa</i> • Eurasian curlew <i>Numenius arquata</i> • Northern pintail <i>Anas acuta</i> • Ruddy turnstone <i>Arenaria interpres</i> • Common redshank <i>Tringa totanus</i> • Lesser black-backed gull <i>Larus fuscus</i> <p>During the breeding season the site regularly supports</p> <ul style="list-style-type: none"> • Lesser black-backed gull <i>Larus fuscus</i> • European herring gull <i>Larus argentatus argentatus</i> 	

Name of European site and location in relation to the Development	Qualifying features	Pathways of effect
	<p>Article 4.2 Qualification (2009/147/EC): an internationally important assemblage of birds</p> <p>The site qualifies as it is regularly used by over 20,000 seabirds in any season, including</p> <ul style="list-style-type: none"> • European herring gull <i>Larus argentatus argentatus</i> • Lesser black-backed gull <i>Larus fuscus</i> • Sandwich tern <i>Sterna sandvicensis</i> • Common tern <i>Sterna hirundo</i> • Little tern <i>Sternula albifrons</i> <p>The site qualifies as it is regularly used by over 20,000 waterbirds in any season. The main components of the assemblage include all qualifying features listed above, as well as:</p> <p>Great egret <i>Ardea alba</i>, Eurasian spoonbill <i>Platalea leucorodia</i>, Brent goose <i>Branta bernicla</i>, Eurasian wigeon <i>Anas Penelope</i>, Eurasian teal <i>Anas crecca</i>, Green-winged teal <i>Anas carolinensis</i>, Mallard <i>Anas platyrhynchos</i>, Ring-necked duck <i>Aythya collaris</i>, Common eider <i>Somateria mollissima</i>, Common goldeneye <i>Bucephala clangula</i>, Red-breasted merganser <i>Mergus serrator</i>, Great cormorant <i>Phalacrocora</i></p>	

Name of European site and location in relation to the Development	Qualifying features	Pathways of effect
	<p><i>carbo</i>, Northern lapwing <i>Vanellus vanellus</i>, Little Stint <i>Calidris minuta</i>, Spotted redshank <i>Tringa erythropus</i>, Common greenshank <i>Tringa nebularia</i>, Black-headed gull <i>Chroicocephalus ridibundus</i>, Common gull <i>Larus canus</i>, European herring gull <i>Larus argentatus argentatus</i></p>	
<p>Morecambe Bay Ramsar site (0.3km from the Development)</p>	<p>Ramsar criterion 4</p> <p>The site is a staging area for migratory waterfowl including internationally important numbers of:</p> <p>Ringed plover <i>Charadrius hiaticula</i> (passage)</p> <p>Ramsar criterion 5</p> <p>Assemblages of international importance (Species with peak counts in winter):</p> <p>223709 waterfowl (5 year peak mean 1998/99-2002/2003)</p> <p>Ramsar criterion 6</p> <p>Species/populations occurring at levels of international importance.</p> <p><u>Species regularly supported during the breeding season:</u></p> <ul style="list-style-type: none"> • Lesser black-backed gull <i>Larus fuscus</i> 	<p>As per those identified for the Morecambe Bay and Duddon Estuary SPA, above</p>

Name of European site and location in relation to the Development	Qualifying features	Pathways of effect
	<ul style="list-style-type: none"> • Herring gull <i>Larus argentatus argentatus</i> • Sandwich tern <i>Sterna (Thalasseus) sandvicensis sandvicensis</i> <p><u>Species with peak counts in spring/autumn:</u></p> <ul style="list-style-type: none"> • Great cormorant <i>Phalacrocorax carbo carbo</i> • Common shelduck <i>Tadorna tadorna</i> • Northern pintail <i>Anas acuta</i> • Common eider <i>Somateria mollissima mollissima</i> • Eurasian oystercatcher <i>Haematopus ostralegus ostralegus</i> • Ringed plover <i>Charadrius hiaticula</i> • Grey plover <i>Pluvialis squatarola</i> • Sanderling <i>Calidris alba</i> • Eurasian curlew <i>Numenius arquata arquata</i> • Common redshank <i>Tringa totanus totanus</i> • Ruddy turnstone <i>Arenaria interpres interpres</i> 	

Name of European site and location in relation to the Development	Qualifying features	Pathways of effect
	<ul style="list-style-type: none"> • Lesser black-backed gull <i>Larus fuscus</i> <p><u>Species with peak counts in winter</u></p> <ul style="list-style-type: none"> • Great crested grebe <i>Podiceps cristatus cristatus</i> • Pink-footed goose <i>Anser brachyrhynchus</i> • Eurasian wigeon <i>Anas Penelope</i> • Common goldeneye <i>Bucephala clangula clangula</i> • Red-breasted merganser <i>Mergus serrator</i> • European golden plover <i>Pluvialis apricaria apricaria</i> • Northern lapwing <i>Vanellus vanellus</i> • Red knot <i>Calidris canutus islandica</i> • Dunlin <i>Calidris alpina alpine</i> • Bar-tailed godwit <i>Limosa lapponica lapponica</i> 	
<p>Morecambe Bay SAC (8km from the Development)</p>	<p>Annex I habitats that are a primary reason for selection of this site</p> <ul style="list-style-type: none"> • Estuaries 	<ul style="list-style-type: none"> • Degradation of qualifying features as a result of habitat loss/alteration • Air pollution and dust from construction traffic and plant

Name of European site and location in relation to the Development	Qualifying features	Pathways of effect
	<ul style="list-style-type: none"> • Mudflats and sandflats not covered by seawater at low tide • Large shallow inlets and bays • Perennial vegetation of stony banks • Salicornia and other annuals colonizing mud and sand • Atlantic salt meadows (<i>Glaucopuccinellietalia maritimae</i>) • Shifting dunes along the shoreline with <i>Ammophila arenaria</i> ("white dunes") • Fixed coastal dunes with herbaceous vegetation ("grey dunes") • Humid dune slacks <p>Annex I habitats present as a qualifying feature, but not a primary reason for selection of this site</p> <ul style="list-style-type: none"> • Sandbanks which are slightly covered by sea water all the time • Coastal lagoons • Reefs • Embryonic shifting dunes 	<ul style="list-style-type: none"> • Effects on water quality during construction

Name of European site and location in relation to the Development	Qualifying features	Pathways of effect
	<ul style="list-style-type: none"> • Atlantic decalcified fixed dunes (<i>Calluno-Ulicetea</i>) • Dunes with <i>Salix repens ssp. argentea</i> (<i>Salicion arenariae</i>) <p>Annex II species that are a primary reason for selection of this site</p> <ul style="list-style-type: none"> • Great crested newt <i>Triturus cristatus</i> 	
<p>Ribble and Alt Estuaries SPA (10km from the Development)</p>	<p>Article 4.1 of Directive (79/409/EEC) and Article 4.2 of Directive (79/409/EEC) species:</p> <p><u>Breeding</u></p> <ul style="list-style-type: none"> • Ruff <i>Philomachus pugnax</i> • Common tern <i>Sterna hirundo</i> • Lesser black-backed gull <i>Larus fuscus graellsii</i> <p><u>Wintering</u></p> <ul style="list-style-type: none"> • Bewick's swan <i>Cygnus columbianus bewickii</i> • Whooper swan <i>Cygnus Cygnus</i> • Golden plover <i>Pluvialis apricaria</i> • Bar-tailed godwit <i>Limosa lapponica</i> 	<ul style="list-style-type: none"> • Disturbance/displacement of species utilising fields within and adjacent to the Development from noise and visual effects during construction

Name of European site and location in relation to the Development	Qualifying features	Pathways of effect
	<ul style="list-style-type: none"> • Pink-footed goose <i>Anser brachyrhynchus</i> • Shelduck <i>Tadorna tadorna</i> • Wigeon <i>Anas penelope</i> • Teal <i>Anas crecca</i> • Pintail <i>Anas acuta</i> • Oystercatcher <i>Haematopus ostralegus</i> • Grey Plover <i>Pluvialis squatarola</i> • Knot <i>Calidris canutus islandica</i> • Sanderling <i>Calidris alba</i> • Dunlin <i>Calidris alpina alpina</i> • Black-tailed Godwit <i>Limosa limosa islandica</i> • Redshank <i>Tringa totanus</i> <p><u>Passage</u></p> <ul style="list-style-type: none"> • Ringed plover <i>Charadrius hiaticula</i> • Sanderling <i>Calidris alba</i> • Redshank <i>Tringa totanus</i> <p>Assemblage qualification: Article 4.2 of the Directive (79/409/EEC)</p>	

Name of European site and location in relation to the Development	Qualifying features	Pathways of effect
	<p><u>Non-breeding</u></p> <ul style="list-style-type: none"> • Cormorant <i>Phalacrocorax carbo</i> • Bewick's swan <i>Cygnus columbianus bewickii</i> • Whooper swan <i>Cygnus cygnus</i> • Pink-footed Goose <i>Anser brachyrhynchus</i> • Shelduck <i>Tadorna tadorna</i> • Wigeon <i>Anas Penelope</i> • Teal <i>Anas crecca</i> • Pintail <i>Anas acuta</i> • Scaup <i>Aythya marila</i> • Common scoter <i>Melanitta nigra</i> • Oystercatcher <i>Haematopus ostralegus</i> • Ringed plover <i>Charadrius dubius</i> • Golden plover <i>Pluvialis apricaria</i> • Grey plover <i>Pluvialis squatarola</i> • Lapwing <i>Vanellus vanellus</i> • Knot <i>Calidris canutus islandica</i> 	

Name of European site and location in relation to the Development	Qualifying features	Pathways of effect
	<ul style="list-style-type: none"> • Sanderling <i>Calidris alba</i> • Dunlin <i>Calidris alpina alpina</i> • Black-tailed godwit <i>Limosa limosa islandica</i> • Bar-tailed godwit <i>Limosa lapponica</i> • Whimbrel <i>Numenius phaeopus</i>, • Curlew <i>Numenius arquata</i> • Redshank <i>Tringa tetanus</i> <p><u>Breeding</u></p> <ul style="list-style-type: none"> • Black-headed gull <i>Larus ridibundus</i> • Lesser black-backed gull <i>Larus fuscus graellsii</i> • Common tern <i>Sterna hirundo</i>. <p>Non-qualifying species of interest (Annex 1 species occurring in non-breeding numbers of less than European importance)</p> <ul style="list-style-type: none"> • Hen harrier <i>Circus cyaneus</i> • Merlin <i>Falco columbarius</i> • Peregrine <i>Falco peregrinus</i> 	

Name of European site and location in relation to the Development	Qualifying features	Pathways of effect
	<ul style="list-style-type: none"> • Short-eared Owl <i>Asio flammeus</i> 	
<p>Ribble and Alt Estuaries Ramsar site (10km from the Development)</p>	<p>Ramsar criterion 2:</p> <ul style="list-style-type: none"> • Natterjack toad <i>Bufo calamita</i> • <i>Petalophyllum ralfsii</i> <p>Ramsar criterion 5</p> <p>Assemblages of international importance (Species with peak counts in winter):</p> <p>222,038 waterfowl (5 year peak mean 1998/99-2002/2003)</p> <p>Ramsar criterion 6</p> <p>Species/populations occurring at levels of international importance.</p> <p>Species regularly supported during the breeding season:</p> <ul style="list-style-type: none"> • Black-tailed godwit <i>Limosa limosa islandica</i> • Common redshank <i>Tringa totanus tetanus</i> • Dunlin <i>Calidris alpina alpina</i> • Grey plover <i>Pluvialis squatarola</i> • Red knot <i>Calidris canutus islandica</i> 	<p>As per those identified for the Ribble and Alt Estuaries SPA, above</p>

Name of European site and location in relation to the Development	Qualifying features	Pathways of effect
	<ul style="list-style-type: none"> • Ringed plover <i>Charadrius hiaticula</i> • Sanderling <i>Calidris alba</i> • Bar-tailed godwit <i>Limosa lapponica lapponica</i> • Eurasian oystercatcher <i>Haematopus ostralegus ostralegus</i> • Eurasian teal <i>Anas crecca</i> • Eurasian wigeon <i>Anas Penelope</i> • Northern pintail <i>Anas acuta</i> • Pink-footed goose <i>Anser brachyrhynchus</i> • Tundra swan <i>Cygnus columbianus bewickii</i> • Whooper swan <i>Cygnus cygnus</i> 	
<p>Liverpool Bay SPA (6km from the Development)</p>	<p>Article 4.1 Qualification (2009/147/EC)</p> <p>Over winter the site regularly supports:</p> <ul style="list-style-type: none"> • Red-throated diver <i>Gavia stellate</i> • Little gull <i>Hydrocoloeus minutus</i> <p>During the breeding season the site regularly supports:</p>	<ul style="list-style-type: none"> • Disturbance/displacement of species during construction

Name of European site and location in relation to the Development	Qualifying features	Pathways of effect
	<ul style="list-style-type: none"> • Little tern <i>Sternula albifrons</i> • Common tern <i>Sterna hirundo</i> <p>Article 4.2 Qualification (2009/147/EC):</p> <p>Over winter, the site is regularly used by:</p> <ul style="list-style-type: none"> • Common scoter <i>Melanitta nigra</i> <p>The site qualifies as it is regularly used by over 20,000 seabirds in any season, including:</p> <ul style="list-style-type: none"> • In the non-breeding season, the site regularly supports at least 69,687 (2004/05 – 2010/11) individual waterbirds. <p>The main components of the assemblage include all of the non-breeding qualifying features listed above, as well as</p> <ul style="list-style-type: none"> • Red-breasted merganser <i>Mergus serrator</i> • Great cormorant <i>Phalacrocorax carbo</i> 	
<p>Shell Flat and Lune Deep SAC (9km from the Development)</p>	<p>Annex I habitats that are a primary reason for selection of this site:</p> <ul style="list-style-type: none"> • Sandbanks which are slightly covered by sea water all the time 	<ul style="list-style-type: none"> • Disturbance/displacement of species during construction

Name of European site and location in relation to the Development	Qualifying features	Pathways of effect
	<ul style="list-style-type: none">• Reefs	

Conservation Objectives

- 4.7. The conservation objectives for European sites define the desired state for a European site when it will contribute to favourable conservation status for the designated features. The conservation objectives, as published by NE and the Joint Nature Conservation Committee (JNCC) are provided in Annex 2 of this HRA Report.
- 4.8. There are no conservation objectives published for Ramsar sites. For the purposes of this appropriate assessment, the Secretary of State is satisfied that the criterion of the Morecambe Bay and Duddon Estuary and Ribble and Alt Estuaries Ramsar sites are reflected by the qualifying features for the respective SPAs of the same names. These conservation objectives have therefore been considered as a suitable proxy for the Ramsar site.

Assessment of In-combination Effects

- 4.9. Section 6.10 of the Applicant's HRA describes their approach to the potential effects of the Development in-combination with other plans and projects. As set out in table 13 of the Applicant's HRA (and Paragraph 3.0.3 of the ExA's RIES), seven such plans and projects were identified and they are not replicated in full here.
- 4.10. The Applicant's assessment determined that there would be no likely significant in combination effects with six of seven plans or projects considered. The Fleetwood – Thornton Area Action Plan, which seeks to set the planning framework for development of Fleetwood and Thornton over the next 15-20 years, was the only other plan or project considered likely to result in significant effects in-combination with the Development. Therefore, further consideration has been given to the plan in the following sections of this HRA Report as part of the appropriate assessment.
- 4.11. The Secretary of State is content that all plans and projects with the potential to have significant in-combination effects with the Development in terms of the HRA have been identified. The Secretary of State is also satisfied that the approach to the assessment of in-combination effects was not the subject of any dispute during the examination, a point further evidenced through NE's agreement with the Applicant's conclusions in their SoCG (signed version submitted at deadline 2 of the Examination).

LSE Screening Conclusions

- 4.12. The Applicant's HRA concluded that the Development would have no likely significant effect, either alone or in-combination with other plans or projects, on any of the qualifying features of the following European sites from any of the impact pathways identified.

Morecambe Bay SAC;

- 4.13. The air quality assessments undertaken as part of the ES Chapter 6 confirm no LSE associated with the construction or operation of the Development. The SAC lies at some distance outside of the affected road network and potential zone of influence for construction effects.

- 4.14. The water quality assessments undertaken as part of the ES Chapter 13 confirm that although the River Wyre and its associated tributaries flow into the SAC, the 8km distance downstream from the Development and the already high background sediment input to Morecombe Bay, there is no potential for LSE during construction or operation of the Development.

Liverpool Bay SPA

- 4.15. The Development is located at a considerable distance from the Liverpool Bay SPA (approximately 6km), and the qualifying bird species for the SPA are exclusively marine species, not likely to inhabit the habitat types affected by the Development. On this basis the Applicant considers that the impacts associated with the Development would not give rise to LSE, nor would the Development adversely add to the pressures identified in the Site Improvement Plan and Supplementary Advice Document.

Shell Flat and Lune Deep SAC

- 4.16. The Development is located at a considerable distance from Shell Flat and Lune Deep SAC (approximately 9km), the Applicant considers that the impacts associated with the Development would not give rise to LSE, nor would the Development adversely add to the pressures identified in the Site Improvement Plan and Supplementary Advice Document.

Ribble and Alt Estuaries SPA and Ramsar site

- 4.17. The Applicant cites the potential pressures/threats which have been identified for this SPA within the Site Improvement Plan (and the Supplementary Advice), of which the protection of roosting and feeding areas, maintenance of population numbers and avoiding disturbance to bird populations are relevant to the Development. At c.10km from the Development, the SPA and Ramsar site are within the foraging ranges of qualifying species such as pink-footed geese, lapwing and golden plover.
- 4.18. On the basis that the Applicant concluded the Development would not lead to an effect on the integrity of the Morecambe Bay and Duddon Estuary SPA and Morecambe Bay Ramsar site (see section 5 of this HRA Report), NE agreed that the potential impacts associated with the Ribble and Alt Estuaries SPA and Ramsar site would not be significant, and the Applicant screened them out as having no LSE during construction and operation.
- 4.19. The other impacts pathways associated with the Development were screened out from having the potential for LSE (e.g. air quality and water quality effects) due to the considerable distance that exists between the Development and the SPA and Ramsar sites.

Morecambe Bay SAC, Liverpool Bay SPA, Shell Flat and Lune Deep SAC and Ribble and Alt Estuaries SPA and Ramsar site LSE Screening Summary

- 4.20. The Secretary of State is content that there will be no LSE to any of the qualifying features for these European sites, alone or in combination with other plans or projects from all impact pathways, with the exception of

disturbance / displacement of bird populations of the Ribble and Alt Estuaries SPA and Ramsar site.

- 4.21. In the case of the Liverpool Bay SPA, the Secretary of State is satisfied with the Applicants conclusion and supporting evidence that the qualifying bird species are exclusively marine and not likely to inhabit the habitat types affected by the Development (whereas the Ribble and Alt Estuaries SPA and Ramsar site share many of the same wetland bird features as the Morecambe Bay and Duddon Estuary SPA and Morecambe Bay Ramsar sites).
- 4.22. The Secretary of State therefore concludes there would be no LSE to the Morecombe Bay SAC, Shell Flat and Lune Deep SAC and Liverpool Bay SPA.
- 4.23. The Applicant's information does not distinguish with any certainty whether bird populations within the study area can be attributed to populations at any particular European site. However, it is reasonable to assume that they are most likely associated with the European site in closest proximity to the Development. Notwithstanding this approach, applying the precautionary principle, the Secretary of State considers it also necessary to undertake an appropriate assessment for the relevant qualifying features of the Ribble and Alt Estuaries SPA and Ramsar site (in respect of bird disturbance / displacement).
- 4.24. NE reached agreement with the Applicant on their HRA screening methodology and conclusions of no LSE in respect of the five European sites screened out by the Applicant. This is set out in section 3.2 of their SoCG with the Applicant (signed 'Rev 2' version at deadline 8, 1 October 2019).

Morecambe Bay and Duddon Estuary SPA and Morecambe Bay Ramsar site

- 4.25. The focus of the examination in terms of HRA matters was largely on the conclusions in respect of the Morecambe Bay and Duddon Estuary SPA and Morecambe Bay Ramsar site.
- 4.26. Paragraphs 6.3.2 – 6.3.13 of the Applicant's HRA set out their LSE conclusions for the Morecambe Bay and Duddon Estuary SPA and Morecambe Bay Ramsar site against each of the pathways of effect (as identified in Table 2 of this HRA Report above). These pathways are considered in the following sections.

Impacts to Air Quality

- 4.27. In relation to the construction of the Development, it is not anticipated that airborne pollutants and/or dust arising from construction activities or vehicle movements during the construction phase would result in LSE. Current air quality guidance suggests that any construction sites or routes within 50m (or within 200m of a main access road) of a European site could lead to LSE⁵.

⁵ Although not specifically cited by the Applicant, the Secretary of State understands that the "current air quality guidance" relates the following: Institute of Air Quality Management (IAQM): Guidance on the assessment of dust from demolition and construction www.iaqm.co.uk/text/guidance/construction-dust-2014.pdf.

- 4.28. The construction works would be more than 200m from the edge of the SPA / Ramsar site at its closest point, with the majority of the construction works more than 500m from the Development (i.e. beyond the 50m threshold). Access routes for construction traffic would use the M55, the existing A585, A586, A588, A587 and A583, all of which are more than 250m from the SPA / Ramsar site at its closest point (as set out in ES Chapter 2) (i.e. beyond the 200m buffer).
- 4.29. Taking the distance to the European sites and the nature of the qualifying features into account, the Applicant determined there would be no LSE as a result of the Development. This conclusion was reached regardless of whether or not the "*standard measures*" put in place to protect air quality during construction (e.g. dust suppression), as set out within the Record of Environmental Actions and Commitments (REAC), were or were not implemented.
- 4.30. With regards to operation, the Development would be c. 280m from the SPA / Ramsar site at its closest point (with the majority of the new road more than 500m away). The air quality chapter of the ES shows that the SPA / Ramsar site is located outside of the 200m buffer surrounding the affected road network (as shown on Figure 6.1 of the ES) and therefore, there would be no LSE. The modelled receptor points are shown on Figure 6.3 of the ES with the modelled concentrations for NO₂ at those receptor points in Table 6-7 of ES Chapter 6. With reference to Figure 6.3 and table 6-7, the Secretary of State notes that receptor ID's R2, R6, R8, R12, R22, R31 and R35 are those that are closest to the European sites and, and the only reported increase across all of these (between the 'do minimum' and 'do something' scenarios are 0.2 and 0.4µg/m³ at R2 and R31 respectively, with all others reporting a negative value (i.e. improvement in NO₂ concentrations) associated with the Development. The increases at R2 and R31 are considered as "imperceptible" in accordance with the stated criteria in table 6-3 and paragraph 6.3.22 of ES Chapter 6 and would decrease further with distance from the roadside towards the European sites.
- 4.31. The Secretary of State is therefore content to conclude that there would be no LSE to the Morecambe Bay and Duddon Estuary SPA and Morecambe Bay Ramsar site from air quality effects during the construction or operation of the Development. The conclusion of no LSE for this impact pathway at these European sites is also supported by NE (section 3.2 of their SoCG with the Applicant (signed 'Rev 2' version at deadline 8, 1 October 2019)).

Impacts to Water Quality

- 4.32. The Development has the potential to indirectly effect water quality in the River Wyre and its associated tributaries (which drain into the Morecambe Bay and Duddon Estuary SPA and Morecambe Bay Ramsar sites) during both construction and operation.
- 4.33. The Applicant's bird survey results (Appendix 3 of the Applicant's HRA) show that relatively large numbers of SPA / Ramsar site species are utilising the River Wyre as a foraging and roosting resource. The Main Dyke feeds directly into the River Wyre within the European site and construction works for the Development would be required within and adjacent to the Main Dyke. The Applicant concluded that an LSE could from impacts on water quality and the

indirect effect on the waterbird assemblage at European sites utilising the River Wyre as a foraging resource.

- 4.34. In terms of operational effects, the Development would require the management of surface water run-off from the road, and accidental spillage. The Applicant prepared a water quality assessment including a Highways Agency Water Risk Assessment Tool (HAWRAT) (forming an Appendix to the Flood Risk Assessment (FRA) (Document 5.2), which concluded that mitigation in relation to possible water quality effects associated with catchments 4 to 7, but not for catchments 1 to 3 would be required. These catchment numbers are shown in Appendix G⁶ of the Drainage Design Development Report (which forms Appendix E of the FRA, Document 5.2), and it is catchments 1-3 that are in closest proximity to the European sites.
- 4.35. The Applicant is of the view that the requirement for mitigation was not linked to the proximity of the designated site, but was in relation to increased traffic flows, and that the mitigation would include measures such as wetland areas (with creation of penstocks to manage water flow), and balancing ponds. The water quality assessment did not identify any need for specific "additional mitigation measures" to protect water quality of the adjacent European sites, and therefore no LSE was concluded.
- 4.36. The Secretary of State has given regard to the judgement of the European Court of Justice (ECJ) in respect of *People Over Wind, Peter Sweetman v Coillte Teoranta*⁷ around taking account of any measures intended to avoid or reduce the harmful effects at the LSE screening stage. The Secretary of State concludes that, in light of the measures set out in the HAWRAT and drainage design, an appropriate assessment is required in respect of operational water quality effects on the Morecambe Bay and Duddon Estuary SPA and Morecambe Bay Ramsar site. This conclusion also reflects the potential for in-combination effects as set out in paragraphs 4.9 - 4.11 of this HRA Report, above, and the potential for adverse effects on the integrity in this regard is set out in Section 5 of this HRA Report.

Impacts to qualifying Bird Species

Disturbance/displacement and loss of foraging/ roosting habitat

- 4.37. The Development has the potential to affect land that is functionally linked to the SPA and Ramsar sites through disturbance and loss of habitat during construction and operation.
- 4.38. The Applicant explains that an approach was agreed with NE that where construction or operational disturbance / displacement impacts displace a small percentage of a qualifying bird species (less than 1% of the SPA / Ramsar site population) no LSE could be concluded, whereas where disturbance / displacement to a qualifying bird species (1% or greater of the SPA / Ramsar site population) LSE could not be excluded.

⁶ Drawing Reference: HE548643-ARC-HDG-SZ-GN_000-DR-D-3034

⁷ <http://curia.europa.eu/juris/document/document.jsf?docid=200970&doclang=EN>

- 4.39. Section 6.6 of the Applicant's HRA sets out the screening process for the qualifying bird species associated with Morecambe Bay and Duddon Estuary SPA and Morecambe Bay Ramsar sites (based on the bird survey data as presented in Appendix 3 of the Applicant's HRA).
- 4.40. A number of qualifying bird species have been recorded, in numbers at or greater than 1% of the total population, within 300m of the Development, and therefore LSE has not been excluded by the Applicant. The relevant qualifying features are:
- Pink-footed goose;
 - Curlew;
 - Lapwing;
 - Little egret; and
 - Species associated with the waterbird assemblage
- 4.41. For all other species (as set out in paragraphs 6.6.1 – 6.6.15, the Applicant concludes that potential for LSE can be excluded on the basis of the species populations recorded in the surveys.
- 4.42. In terms of the loss of foraging/roosting habitat, the Applicant concludes that survey evidence indicates the above four species (plus waterbird assemblage species) do utilise some of the land which would be lost under the footprint of the Development, and therefore LSE cannot be excluded.
- 4.43. NE has specifically agreed to the qualifying features identified to be taken forward to an appropriate assessment (section 3.2 of their SoCG with the Applicant (signed 'Rev 2' version at deadline 8, 1 October 2019)).
- 4.44. The Secretary of State agrees with the conclusions of the Applicant's HRA and the qualifying features for which LSE can and cannot be excluded.

Habitat fragmentation

- 4.45. The Applicant is of the view that the results of the bird surveys indicate the existing road network in the area has not resulted in a severance of flight lines between the SPA / Ramsar site and the surrounding agricultural land.
- 4.46. Given that the new road would be situated parallel to the existing A585/Mains Lane and would include online widening at the eastern end of the Development, any fragmentation effects are not likely to result in LSE to any of the qualifying features.
- 4.47. As set out above, NE has specifically agreed to the qualifying features identified to be taken forward to an appropriate assessment for the Morecambe Bay and Duddon Estuary SPA and Morecambe Bay Ramsar site.
- 4.48. The Secretary of State agrees that LSE from habitat fragmentation effects can be excluded.

Summary of European sites requiring appropriate assessment

4.49. The Secretary of State has summarised the European sites, pathways of effect and qualifying features for which an appropriate assessment is required in Table 3 below.

Table 3 Summary of European sites and qualifying features requiring an appropriate assessment

European Site	Pathway of effect	Construction (C) / Operation (O)	Qualifying Features
Morecambe Bay and Duddon Estuary SPA and Morecambe Bay Ramsar site	Loss of foraging/ roosting habitat	C,O	Pink-footed geese
	Disturbance/displacement	C,O	Curlew Lapwing Little egret Overwintering waterbird assemblage
	Water Quality Effects	C,O	All features
Ribble and Alt Estuaries SPA and Ramsar site	Disturbance/displacement	C,O	Pink-footed goose Curlew Lapwing Overwintering waterbird assemblage

4.50. The Secretary of State has considered the Applicant's conclusions and the ExA's Recommendation Report for all other European sites, qualifying features and pathways of effect that are not set out above and concludes that there would be no LSE.

5. APPROPRIATE ASSESSMENT

- 5.1. As LSE cannot be excluded, the Secretary of State, as the competent authority is required to undertake an appropriate assessment to determine the implications for the conservation objectives of the affected European sites. In line with the requirements of regulation 63 of the Habitats Regulations, the competent authority:

'...may agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the European site...In considering whether a plan or project will adversely affect the integrity of the site, the competent authority must have regard to the manner in which it is proposed to be carried out or to any conditions or restrictions subject to which it proposes that the consent, permission or other authorisation should be given'.

- 5.2. As noted in Section 1 of this HRA Report, the competent authority is obliged to consult the appropriate nature conservation body and have regard to any representations made by that body. For this purpose, the ExA prepared a RIES as set out in Paragraphs 1.15 - 1.18 of this HRA Report, and the Secretary of State is satisfied that NE have been consulted in line with regulation 63 of the Habitats Regulations.
- 5.3. If the competent authority cannot exclude adverse effects on the integrity of the affected European sites (AEoI) on the basis of objective scientific evidence, then it can only consent a plan or project if it complies with the requirements of regulation 64 of the Habitats Regulations. This means that there must be no alternative solutions to the delivery of the plan or project that would have lesser effects on the European sites, the plan or project must be delivered for imperative reasons of overriding public interest. In addition, regulation 68 requires compensatory measures to be secured which maintain the overall coherence of the Natura 2000 network.

Adverse Effects on the Integrity of the European sites

- 5.4. For the purposes of the following sections, Morecambe Bay and Duddon Estuary SPA, Morecambe Bay Ramsar site and Ribble and Alt Estuaries SPA and Ramsar site will be considered concurrently having regard to the relevant impact pathways identified above.
- 5.5. As set out in paragraphs 4.7 – 4.8 of this HRA Report, the appropriate assessment has been made in light of the conservation objectives for the relevant sites which are included in Annex 2 of this document.

Water Quality Effects

- 5.6. Through their initial relevant representations, NE made comments in relation to a lack of detail for mitigation measures proposed to address impacts to water quality from run-off and increased pollution entering the Main Drain Dyke during construction. The Applicant updated their HRA to more clearly define the measures included within the OCEMP that were relied on to either avoid or reduce the harmful effects of the Development. The OCEMP includes reference to best practice and relevant guidance from the Construction

Industry Research and Information Association (CIRIA), including 'Control of water pollution from construction sites: guidance for consultants and contractors (C532)' and 'Environmental Good Practice on Site (C741)'. These measures are set out in Table 20 of the Applicant's HRA, and include:

- Protocols for undertaking regular (daily) visual checking of waterbodies located near areas of construction works
- Avoiding spillages by using screens and bunds around storage tanks to prevent leakages, use of drip trays around mobile plant, designating specific areas for re-fuelling to prevent run off into adjacent waterbodies
- Use of a cofferdam at Skippool Clough Culvert above high-water mark to prevent wash-out.
- Use of temporary cut-off drains, settlement ponds, silt curtains and fences to prevent run off from entering the Main Dyke and other ditches within the construction area.
- Scour protection to spread flows and reduce velocities minimising damage and mobilisation of sediment; and
- Use of grips, sumps, straw bales and sediment traps to capture silt, if required (regularly maintained to ensure that they remain effective and do not increase the likelihood of an incident occurring).

5.7. Provision of a CEMP for each part of the Development (*'substantially in accordance with the outline CEMP'* and *'in accordance with the mitigation measures set out in the REAC'*) is secured by DCO requirement 4. The CEMP must be approved by the Secretary of State, following consultation with the relevant planning authority and NE. Consent from the EA and a Flood Risk Activity Permit (FRAP) would also be required for the works.

5.8. The CEMP must also include the following management plans of relevance to protection of the water environment:

- Pollution Control Plan;
- Emergency Spillage Response Plan;
- Emergency Flood Response Plan;
- Dewatering Management Plan; and
- Construction Water Management Plan.

5.9. In particular, a draft Pollution Control plan was provided as Appendix G to the OCEMP.

5.10. In terms of operational effects (and potential for accidental spillage), design measures (e.g. wetland areas with penstocks to manage water flow, and balancing ponds) for certain of the drainage catchment areas are included as part of the Development.

5.11. The drainage design is secured by DCO requirement 8, which prohibits commencement of any part of the Development until written details of the

surface and foul water drainage system, reflecting the mitigation measures set out in the REAC (including means of pollution control), have been approved by the Secretary of State). The REAC was submitted as a standalone application document (Document 7.3) and also forms Appendix P of the OCEMP. Various aspects of the drainage design scheme are also specific numbered works in the DCO itself (e.g. work no.'s 43, 52, 57, 90 and 93 relate to attenuation ponds).

5.12. The Applicant's HAWRAT assessment did not identify any need for specific "additional mitigation measures" to protect water quality of the adjacent European sites. However, the Secretary of State notes that the Handover Environmental Management Plan (HEMP) (secured through DCO requirement 4) must address the matters set out in the approved CEMP that are relevant to the operation and maintenance of the Development, including:

(a) the environmental information needed for the future maintenance and operation of the authorised development;

(b) the long-term commitments to aftercare, monitoring and maintenance activities relating to the environmental features and mitigation measures that will be required to ensure the continued long-term effectiveness of the environmental mitigation measures and the prevention of unexpected environmental impacts during the operation of the authorised development; and

(c) a record of the consents, commitments and permissions resulting from liaison with statutory bodies.

5.13. The Secretary of State is of the view that, with these measures in place, through the drainage design including the OCEMP (REAC) and HEMP, and taking into account the relevant provisions within the DCO securing such measures, there will be no AEOI on the European sites from impacts to water quality.

5.14. The Applicant's assessment of in-combination effects included developments coming forward under the Fleetwood – Thornton AAP (Section 7.5 of the Applicant's HRA).

5.15. The adopted Wyre Local Plan (and accompanying HRA)⁸ includes reference to protecting water quality. In particular, the HRA accompanying the Wyre Local Plan makes reference to policies CDMP1, CDMP2 and CDMP4 which relate to the need for new development to demonstrate:

- Water quality/pollution prevention measures (in particular those located directly adjacent to the European sites);
- No reduction to water quality or diminishment of the ecological value of the water body or environs; and
- Implementation of Sustainable Urban Drainage solutions (SuDs) (or other options for the management of the surface water at source).

⁸ On the 28 February 2019, Wyre Council adopted its local plan covering the period 2011–2031: [/https://www.wyre.gov.uk/info/200319/wyres_emerging_new_local_plan/1285/adopted_wyre_local_plan_2011-2031](https://www.wyre.gov.uk/info/200319/wyres_emerging_new_local_plan/1285/adopted_wyre_local_plan_2011-2031)

- 5.16. The plan-level HRA concluded that the Wyre Local Plan would not have any adverse effects on the integrity of the European sites (alone or in combination with other plans or projects).
- 5.17. Given these conclusions and measures set out in the local plan policies (as well as provisions for the Development itself), the Secretary of State considers that there would be no AEOI in terms of water quality effects in combination with the Development during construction or operation.

Qualifying Bird Species

- 5.18. Paragraphs 7.4.2 – 7.4.53 of the Applicant’s HRA present the assessment of potential AEOI from disturbance / displacement to birds as well as the loss of habitat during construction. Operational effects are considered in Section 7.7 of the Applicant’s HRA.
- 5.19. These two impacts and how they relate to qualifying features at the European sites are set out in Table 3 of this HRA Report.

Disturbance/displacement (construction and operation)

- 5.20. During construction, the Development has the potential to disturb / displace species due to the following impacts:
- Construction vehicles along the access routes;
 - Amendments to existing public rights of way (PRoW);
 - Night-time working;
 - Construction lighting;
 - Drainage works; and
 - Visual disturbance and construction noise from the works themselves.
- 5.21. As a consequence of these impacts the Applicant identifies the following likely effects to relevant qualifying bird species from disturbance and displacement:
- Redistribution of birds in response to the presence of people (individual disturbance events, or more chronic avoidance)
 - Reduced intake-rate of food (displaced to feed in areas with poorer availability of food)
 - Increased energy expenditure in reacting to disturbance (flying to different areas to feed and roost) and
 - Physiological impacts (e.g. increased stress and heart rate).
- 5.22. In relation to the baseline conditions in and around the Development, species are “*already subject to high levels of background noise and visual disturbance associated with the existing infrastructure around Skippool and Poulton-le-Fylde (including roads and housing)*”. There are also relevant influences of existing land management practices in and around the Development (e.g.

extant shooting rights held by the Duchy of Lancaster covering an area of the foreshore of the River Wyre, as shown on Appendix B of the SoCG between NE and the Applicant (Rev 2)).

- 5.23. The Applicant agreed, in discussions with NE that a disturbance / displacement distance of 300m would be used when considering potential disturbance / displacement associated with the Development (i.e. birds utilising habitats outside of the 300m buffer are considered to be of sufficient distance so as not to be disturbed during construction). Evidence of this agreement is presented in Section 3.2 and item 1.10 of Appendix A to the SoCG between NE and the Applicant.
- 5.24. In terms of construction vehicles and PRow, the Applicant is of the view that AEoI can be excluded due to the temporary nature of the works, the habituation of birds to exiting traffic volumes and the fact that any alterations to PRow would not affect any land utilised by SPA / Ramsar site species.
- 5.25. Construction works including lighting and noise disturbances are controlled through the provisions in the OCEMP. The effects are anticipated to be 'negligible' with no AEoI to the European sites. Any night working would be agreed in advance with the local authority (with restrictions outlined within the final CEMP and REAC). The Secretary of State (after consultation with NE) has ultimate approval of the CEMP through DCO requirement 4.
- 5.26. Drainage works in terms of indirect effects on the European site would be small scale and short-term, comprising vegetation removal and clearance (done by hand, or with small machinery, and would usually take place in good weather conditions, outside of the winter period (with an Ecological Clerk of Works (ECoW) to ensure appropriate measures are taken to avoid potential impacts on SPA / Ramsar site bird species if they were to be undertaken over winter, (item 4AJ of the REAC)). Pollution prevention measures would also be implemented as set out in paragraphs 5.6 – 5.9 of this HRA Report.
- 5.27. The focus of the examination in terms of AEoI was primarily focussed on visual disturbance and construction noise from the works and in particular on the following species:
- Pink-footed geese;
 - Curlew;
 - Lapwing;
 - Little egret; and
 - Overwintering waterbird assemblage
- 5.28. The Applicant concluded that for pink-footed geese, curlew and lapwing *"Whilst it is considered unlikely that the short-term disturbance / displacement effects of the construction works would be detrimental to the fulfilment of the conservation objectives for the SPA/Ramsar site, such an effect cannot be ruled out."*
- 5.29. As such, mitigation in the form of an alternative foraging / roosting area for these birds for the duration of the construction work would be provided within

the order limits as part of the DCO . This is proposed in order to address impacts to land in and around the Development that bird survey evidence shows is functionally linked to the European sites. This mitigation is outlined in Table 20 of the Applicant's HRA and within a 'Bird Mitigation Strategy' document, which forms Appendix B to the OCEMP.

- 5.30. The Bird Mitigation Strategy document was updated in response to comments from NE made during the examination (Rev 2 being the latest iteration, forming part of Rev 4 of the OCEMP). It contains details on the Implementation of the mitigation strategy for pink-footed geese, lapwing and curlew including the following:
- Crop management;
 - Hedgerow management;
 - Supplementary feeding; and
 - Provision and maintenance new scrapes
- 5.31. It also includes provision for monitoring (and a monitoring protocol), which are echoed in item 4AI of the REAC *"to ensure the mitigation measures for the Scheme continue to be appropriate and effective"*.
- 5.32. NE highlighted concerns (as set out in their WR) relating to the Duchy of Lancaster's shooting rights over the land north of the bird mitigation area. In NE's view, shooting activities in these areas could render the mitigation area unsuitable for the purposes of the Bird Mitigation Strategy. NE considered that all shooting rights from the surrounding fields and the foreshore would need to be removed for the duration of the construction works in order for the mitigation to be effective and for them to support a conclusion of no AEOI.
- 5.33. Appendix B of the SoCG between NE and the Applicant (Rev 2) depicts the Bird Mitigation Area, the land under the control of the Applicant under the DCO, adjacent land where shooting does not take place, and the approximate area of shooting rights over the Wyre Estuary (within the ownership of the Duchy of Lancaster).
- 5.34. By the end of the examination (as set out in Paragraphs 6.6.11 – 6.6.14 of the ExA's recommendation report) the Applicant had agreed all matters relating to the Bird Mitigation Area with NE, as reflected in section 3.2 of the SoCG between the parties (Rev 2).
- 5.35. In response to NE's submission at Deadline 8 (around the security of agreement relating to shooting rights), additional wording was included regarding the need to secure the bird mitigation strategy (which in itself includes securing the shooting rights around the mitigation area). Revision 5 of the REAC includes specific wording at items 4X and 4AI around the provisions of the mitigation land:

"... in accordance with detailed specifications, methods and timescales that shall be contained in the Bird Mitigation Strategy forming part of the CEMP to be approved pursuant to paragraph 4(2)(d)(i) of Schedule 2 to the DCO, which must be in accordance with the outline Bird Mitigation Strategy appended to the Outline CEMP."

- 5.36. The Secretary of State notes reference in the REAC to "*the outline Bird Management Strategy appended to the Outline CEMP*", but also notes that such a document is simply described as "Bird Mitigation Strategy" in the OCEMP, certified under the DCO,
- 5.37. In addition, requirement 7(6) was included in the DCO which provides that "*the undertaker must implement the Bird Mitigation Strategy prepared under requirement 4(2)(d)(i) at all times during construction of the authorised development*".
- 5.38. The Applicant also stated (in response to the ExA's request for further information at Deadline 9) that "*The shooting rights are controlled by the Duchy of Lancaster, who are supportive of the Scheme and are working with the Applicant to enable the shooting rights to be suspended at the appropriate time*". The purpose of the additional requirement 7(6) was such that the suspension of shooting rights must be secured prior to the requirement being discharged. Should agreement, for whatever reason, not be forthcoming, then the implementation of the "*Bird Mitigation Strategy prepared under requirement 4(2)(d)(i)*" would not be possible as it would not be in accordance with the REAC (as is required by 4(2)(d)). Item 4AI of the REAC also requires that "*A monitoring and adaptive management protocol must be included as part of the Bird Mitigation Strategy that will be submitted as part of the CEMP to be approved pursuant to paragraph 4(2)(d)(i)*".
- 5.39. The Secretary is content on these bases and with the appropriate provisions secured in the DCO that an AEOI can be excluded during construction of the Development in relation to pink-footed geese, curlew and lapwing.
- 5.40. In relation to little egret and the overwintering waterbird assemblage, the Applicant concluded (as supported by their survey results) that such birds were mainly recorded using the River Wyre and not regularly and frequently recorded utilising habitats within or adjacent to the Development. In the case of little egret, the permanent wetland features used by the little egret population recorded would not be affected by the work and would be screened by bankside vegetation which would reduce the level of noise and visual disturbance. In any event, the mitigation measures put in place for pink-footed geese, curlew and lapwing (as set out above) would also likely provide suitable alternative foraging habitat for these species during the construction phase.
- 5.41. These conclusions were not disputed by any interested parties and the Secretary of State considers the bird survey evidence supports the Applicants conclusion of no AEOI in relation to disturbance/displacement during the construction phase in relation to these species.
- 5.42. Consideration was also given to vibration disturbance from piling activities associated with works at Skippool Clough culvert, Skippool Bridge and Lodge Lane (as set out in ES Appendix 2.1). The Applicant's bird surveys indicate very low levels of activity for qualifying bird species in these areas (combined with the temporary duration of c. 1 month in each of the piling activity areas). The locations of the works are also surrounded by existing development and enclosed by scrub and gardens.
- 5.43. The Secretary of State is satisfied that there would be no AEOI from piling-related vibration effects.

- 5.44. In terms of operational disturbance and displacement effects, wintering bird surveys show that pink-footed geese, lapwing, curlew and little egret (plus birds associated with the waterbird assemblage) utilise fields adjacent to existing sources of disturbance/displacement from the existing A585/A586 and nearby infrastructure in Skippool and Poulton-le-Fylde. They are therefore subject to already (relatively) high levels of disturbance / displacement in the Applicant's view and would likely habituate to new but similar sources of noise and disturbance associated with the Development.
- 5.45. Traffic forecasting and noise modelling undertaken for the Development show that noise levels would likely provide a wider beneficial effect to SPA / Ramsar site bird species during operation. Any increases in noise levels adjacent to the new offline sections of the Development are countered by an anticipated decrease in noise in fields adjacent to the River Wyre (due to de-trunking of the existing A585). This is shown in Figure 11.6 of ES Chapter 11.
- 5.46. The bird surveys also demonstrate that relatively small numbers of birds are using habitats within and adjacent to the new road alignment, with the vast majority of birds in the areas within and adjacent to the River Wyre. Therefore, the decrease in noise levels in fields close to the SPA / Ramsar site would provide a greater benefit to a larger number of birds compared to a slight increase in noise levels where fewer birds were recorded.
- 5.47. The completed Development would also comprise areas of landscape planting, woodland, planting on embankments, and would include new noise and visual screening, as well as sections located in cutting. Acoustic hoarding will also be utilised to further minimise noise impacts, as shown on the Environmental Masterplan (Document 6.19, Rev 3). All of these design measures would further act to reduce the potential noise and visual disturbance/displacement from the completed Development.
- 5.48. The Secretary of State is satisfied that, taking the bird survey evidence, background noise environment, predicted changes in noise modelling and measures including acoustic screening as set out in the Environmental Masterplan, there would be no AEoI to any of the qualifying features from disturbance / displacement during operation.

Loss of habitat

- 5.49. The Development would require the temporary loss of approximately 48ha of farmland habitat in order to facilitate construction works (inclusive of the finished footprint of the Development). Whilst the habitats to be temporarily lost represent potentially suitable foraging habitat for pink-footed geese, curlew and lapwing, the "limited number of observations over the 2-year survey period" indicates that these areas are not of particularly high value to these species and are used only on a sporadic basis.
- 5.50. Any direct habitat loss associated with the Development is not likely to significantly reduce the available foraging habitat for species associated with the SPA / Ramsar sites. The mitigation measures put in place for disturbance / displacement during the construction phase of the Development as set out above (the Bird Mitigation Strategy) would provide suitable alternative foraging habitat for pink-footed geese, curlew and lapwing during the construction phase such that there would be no AEoI.

- 5.51. The Applicant concludes the same in relation to little egret and waterbird species assemblage (given the very limited use of the habitats affected by the Development by these features).
- 5.52. During operation, although a small amount of farmland habitat would be permanently lost to the Development, only a small proportion of the area lost is currently being utilised by qualifying species in numbers equal to or greater than 1% of the SPA / Ramsar site population.
- 5.53. The Applicant's analysis of the use of the fields by SPA / Ramsar site qualifying species has determined that the small-scale loss of less than 4ha during operation would not be significantly detrimental to the fulfilment of the conservation objectives for the SPA / Ramsar sites, nor would the Development affect the ability of the populations of the site species to survive at their current conservation status.
- 5.54. The Secretary of State is satisfied that the Applicant's HRA demonstrates there would be no AEOI during construction or operation due to habitat loss for any of the features considered. NE agreed with the Applicant's conclusions in this regard as part of the SoCG between the parties (Rev 2).

In combination effects

- 5.55. For the same reasons set out in relation to in combination effects relating to water quality (paragraphs 5.15 - 5.17 of this HRA Report), the Secretary of State considers that there would be no AEOI in combination with development proposed under the AAP. The adopted Wyre Local Plan (and accompanying HRA) includes sufficient reference to the protection of European sites through local plan policies (in particular CDMP4, also links the need for future development to have regard to mitigation measures in the Local Plan Habitats Regulations Assessment).
- 5.56. The plan-level HRA concluded that the Wyre Local Plan would not have any adverse effects on the integrity of the European sites (alone or in combination with other plans or projects).
- 5.57. Given these conclusions and measures set out in the local plan policies (as well as provisions for the Development itself), the Secretary of State considers that there would be no AEOI in terms of bird disturbance or habitat loss effects in combination with the Development during construction or operation.

6. HRA CONCLUSIONS

- 6.1. As the competent authority for Transport NSIPs as defined under the PA2008, the Secretary of State for Transport has undertaken an appropriate assessment under Regulation 63 of the Habitats Regulations in relation to the following European sites:
- Morecambe Bay and Duddon Estuary SPA;
 - Morecambe Bay Ramsar site;
 - Ribble and Alt Estuaries SPA; and
 - Ribble and Alt Estuaries Ramsar site
- 6.2. The Secretary of State is satisfied that, given the relative scale and magnitude of the identified effects on the qualifying features of these European sites and where relevant, the measures in place to avoid and reduce the potential harmful effects, there would not be any implications for the achievement of the conservation objectives for those European sites. Those conservation objectives are set out in Annex 2 of this HRA Report. The Secretary of State also recognises the nature of the Development in the context of the existing A585 and the built environment in around Skippool and Poulton-le-Fylde.
- 6.3. Based on the submissions to the examination as summarised in the ExA's RIES and Recommendation Report, the Secretary of State is satisfied that the views of NE as the appropriate nature conservation body have been considered and that they are in agreement with the scope and conclusions of the Applicant's HRA.
- 6.4. The Secretary of State concludes that the Development would not result in any adverse effects on integrity of any of the qualifying features for which the Morecambe Bay and Duddon Estuary SPA, Morecambe Bay Ramsar, Ribble and Alt Estuaries SPA and Ribble and Alt Estuaries Ramsar sites are designated (alone or in combination with other plans and projects).

Annex 1 Documents used to inform this HRA Report

Application Documents

- A585 Windy Harbour to Skippool Improvement Scheme Environmental Statement (including supporting Figures and Appendices) (Documents 6.1, 6.2 and 6.3)
- A585 Windy Harbour to Skippool Improvement Scheme Habitats Regulations Assessment (Document 5.4, Rev 2)
- A585 Windy Harbour to Skippool Improvement Scheme Outline Construction Environmental Management Plan (Document 7.2, Rev 3) (OCEMP)
- A585 Windy Harbour to Skippool Improvement Scheme Record of Environmental Actions and Commitments (Document 7.3, Rev 5) (REAC)
- A585 Windy Harbour to Skippool Improvement Scheme Environmental Masterplan (Document 6.19, Rev 3)

Examination Documents produced by Applicant

(nb the Application Documents above were also updated during the course of the examination)

- Statement of Common Ground between Highways England and Natural England (Signed version at Deadline 5)
- Statement of Common Ground between Highways England and the Marine Management Organisation (Signed version at Deadline 9)
- Response to the ExA's Written Questions
- Response to the ExA's Request for Further Information (at Deadline 9)

Examination Documents produced by Interested Parties

- Relevant Representation of Natural England
- Written Representation of Natural England
- Submissions of Natural England at Deadlines 5, 6, 7 and 8 (including comments on the ExA's Report on the Implications for European Sites (RIES))

ExA Procedural Decisions

- Report on the Implications for European Sites Proposed A585 Windy Harbour to Skippool Improvement Scheme
- ExA's First Written Questions
- ExA's Requests for Further Information under Rule 17 of The Infrastructure Planning (Examination Procedure) Rules 2010

Annex 2 Conservation Objectives

Available from: <http://publications.naturalengland.org.uk/category/6490068894089216>

Nb. In the case of all European sites identified below, the conservation objectives are to be read in conjunction with the accompanying Supplementary Advice documents, which provides more detailed advice and information to enable the application and achievement of the Objectives set out.

Morecambe Bay and Duddon Estuary Special Protection Area (UK9020326)

Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the aims of the Wild Birds Directive, by maintaining or restoring;

- The extent and distribution of the habitats of the qualifying features
- The structure and function of the habitats of the qualifying features
- The supporting processes on which the habitats of the qualifying features rely
- The population of each of the qualifying features, and,
- The distribution of the qualifying features within the site.

Ribble and Alt Estuaries Special Protection Area (UK9005103)

Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the aims of the Wild Birds Directive, by maintaining or restoring;

- The extent and distribution of the habitats of the qualifying features
- The structure and function of the habitats of the qualifying features
- The supporting processes on which the habitats of the qualifying features rely
- The population of each of the qualifying features, and,
- The distribution of the qualifying features within the site.

Ribble and Alt Estuaries Ramsar Site (Site Number: 325)

Information Sheet on Ramsar Wetlands (RIS) for the Ribble and Alt Estuaries site available from: <https://rsis.ramsar.org/ris/325>

Morecambe Bay Ramsar Site (Site Number: 863)

Information Sheet on Ramsar Wetlands (RIS) for the Morecambe Bay site available from: <https://rsis.ramsar.org/ris/863>